



# STATE OF CONNECTICUT

## CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: [siting.council@ct.gov](mailto:siting.council@ct.gov)

[www.ct.gov/csc](http://www.ct.gov/csc)

December 23, 2016

Christopher B. Fisher, Esq.  
Daniel M. Laub, Esq.  
Cuddy & Feder, LLP  
445 Hamilton Avenue, 14<sup>th</sup> Floor  
White Plains, NY 10601

RE: **DOCKET NO. 463A** – American Towers, LLC and New Cingular Wireless PCS, LLC amended application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 351A Boston Post Road, East Lyme, Connecticut or for the construction, maintenance and operation of a telecommunications facility at an alternative site located at 2 Arbor Crossing, East Lyme, Connecticut pursuant to Connecticut General Statutes §4-181a(a).

Dear Attorneys Fisher and Laub:

By its Decision and Order dated December 22, 2016, the Connecticut Siting Council (Council) granted a Certificate of Environmental Compatibility and Public Need (Certificate) to New Cingular Wireless PCS, LLC for the construction, maintenance, and operation of a telecommunications facility located at 2 Arbor Crossing, East Lyme, Connecticut.

Enclosed are the Council's Certificate, Findings of Fact, Opinion, and Decision and Order.

Very truly yours,

Robert Stein  
Chairman

RS/RDM/cm

Enclosures (4)

c: Parties and Intervenors (without Certificate enclosure)  
State Documents Librarian (without Certificate enclosure)

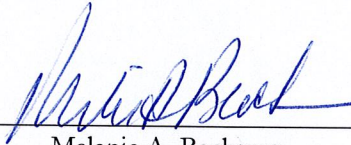
STATE OF CONNECTICUT )

: ss. New Britain, Connecticut December 23, 2016

COUNTY OF HARTFORD )

I hereby certify that the foregoing is a true and correct copy of the Findings of Fact, Opinion, and Decision and Order issued by the Connecticut Siting Council, State of Connecticut.

ATTEST:



Melanie A. Bachman  
Acting Executive Director  
Connecticut Siting Council

I certify that a copy of the Findings of Fact, Opinion, and Decision and Order in Docket No. 463A has been forwarded by Certified First Class Return Receipt Requested mail, on December 23, 2016, to all parties and intervenors of record as listed on the attached service list, dated September 29, 2016.

ATTEST:



Carriann Mulcahy  
Secretary II  
Connecticut Siting Council

**LIST OF PARTIES AND INTERVENORS**  
**SERVICE LIST**

Status Granted	Document Service	Status Holder (name, address & phone number)	Representative (name, address & phone number)
<b>Applicant</b>	<input checked="" type="checkbox"/> E-mail	American Tower Corporation & New Cingular Wireless PCS, LLC	<p>Christopher B. Fisher, Esq. Daniel M. Laub, Esq. Cuddy &amp; Feder LLP 445 Hamilton Avenue, 14<sup>th</sup> Floor White Plains, NY 10601 <a href="mailto:cfisher@cuddyfeder.com">cfisher@cuddyfeder.com</a></p> <p>Jessica Rincon, Sr. Real Estate and Construction Manager AT&amp;T Mobility 550 Cochituate Road, Ste. 13 &amp; 14 Framingham, MA 01701 <a href="mailto:JR7293@att.com">JR7293@att.com</a></p> <p>Matthew Russell American Tower Corporation 10 Presidential Way Woburn, MA 01801 <a href="mailto:Matthew.Russell@AmericanTower.com">Matthew.Russell@AmericanTower.com</a></p>
<b>Party &amp; CEPA Intervenor Approved 12/10/15</b>	<input checked="" type="checkbox"/> E-mail	Town of East Lyme	<p>Tracy M. Collins, Esq. Waller, Smith &amp; Palmer, P.C. 52 Eugene O'Neill Drive New London, CT 06320 <a href="mailto:tmcollins@wallersmithpalmer.com">tmcollins@wallersmithpalmer.com</a></p>
<b>Party &amp; CEPA Intervenor Approved 12/10/15</b>	<input checked="" type="checkbox"/> E-mail	BHSO Community Conservancy	<p>Craig Tooker 342 Boston Post Road East Lyme, CT 06333 <a href="mailto:ctooker@sbcglobal.net">ctooker@sbcglobal.net</a></p>



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### VIA ELECTRONIC MAIL

December 23, 2016

TO: Classified/Legal Supervisor  
**463A161227**  
The New London Day  
P.O. Box 1231  
New London, CT 06320

FROM: Carriann Mulcahy, Secretary II 

RE: **DOCKET NO. 463A** – American Towers, LLC and New Cingular Wireless PCS, LLC amended application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 351A Boston Post Road, East Lyme, Connecticut or for the construction, maintenance and operation of a telecommunications facility at an alternative site located at 2 Arbor Crossing, East Lyme, Connecticut pursuant to Connecticut General Statutes §4-181a(a).

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Please publish the attached notice as soon as possible, but not on Saturday, Sunday, or a holiday.

Please send an affidavit of publication and invoice to my attention.

Thank you.

CM





# STATE OF CONNECTICUT

## CONNECTICUT SITING COUNCIL

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### NOTICE

Pursuant to General Statutes § 16-50p (a), the Connecticut Siting Council (Council) announces that, on December 22, 2016, the Council issued Findings of Fact, an Opinion, and a Decision and Order approving an amended application from American Towers, LLC and New Cingular Wireless PCS, LLC for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 2 Arbor Crossing, East Lyme, Connecticut. This amended application record is available for public inspection in the Council's office, Ten Franklin Square, New Britain, Connecticut.

**DOCKET NO. 463A** – American Towers, LLC and New Cingular Wireless PCS, LLC amended application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 351A Boston Post Road, East Lyme, Connecticut or for the construction, maintenance and operation of a telecommunications facility at an alternative site located at 2 Arbor Crossing, East Lyme, Connecticut pursuant to Connecticut General Statutes §4-181a(a).

Connecticut  
Siting  
Council  
December 22, 2016

### **Findings of Fact**

#### **Introduction**

1. American Towers, LLC and New Cingular Wireless PCS, LLC, (collectively the Applicant), in accordance with provisions of Connecticut General Statutes (C.G.S.) § 16-50g, et seq, applied to the Connecticut Siting Council (Council) on October 6, 2015 for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance, and operation of a 194-foot monopole wireless telecommunications facility located at 351A Boston Post Road in East Lyme, Connecticut. (Applicant 1, p. 1)
2. The purpose of the proposed facility is to replace an existing 150-foot telecommunications facility located at 2 Scott Road in East Lyme, approximately 0.3 miles northwest of the proposed site (refer to Figure 1). AT&T and T-Mobile Northeast LLC (T-Mobile) are located on the existing tower. T-Mobile did not intervene in the proceeding but intends to locate on the proposed facility. (Applicant 1, p. 11; Applicant 2, Tab E; Tr. 1, p. 67; Letter from Vertical Development dated October 31, 2016)
3. The existing 2 Scott Road facility was approved in 1986 in Docket 67 prior to the subsequent development of the underlying parcel as a residential development known as The Orchards. In its decision, the Council issued a Certificate to AT&T's predecessor, Southern New England Telephone Company. At the time of the Application filing, AT&T's existing property lease with the landlord would expire in late 2016 and AT&T was unable to secure a long-term lease for the existing tower. (Applicant 1, pp. 2, 11, Tab 1)
4. American Towers, LLC (ATC) is a Massachusetts Corporation with an office in Woburn, Massachusetts. ATC owns and/or operates numerous tower facilities in Connecticut. (Applicant 1, p. 5)
5. New Cingular Wireless PCS, LLC (AT&T) is a Delaware limited liability company with an administrative office located in Rocky Hill, Connecticut. AT&T is licensed by the Federal Communications Commission (FCC) to provide personal wireless communication service to Connecticut. (Applicant 1, p. 5)
6. The parties in this proceeding are ATC, AT&T, the Town of East Lyme (Town) and BHSO Community Conservancy. Pursuant to Connecticut General Statutes §22a-19, the Council granted both the Town of East Lyme and BHSO Community Conservancy Connecticut Environmental Protection Act intervenor status. (BHSO Community Conservancy 1; Town 1; Transcript 1, December 15, 2015, 3:00 p.m. [Tr. 1], p. 5)

**Procedural Matters**

7. Pursuant to C.G.S. § 16-50(b), public notice of the application filing to the Council was published in The Day on September 23, and September 30, 2015. (Applicant 5)
8. Pursuant to C.G.S. §16-50(b), notice of the application was provided to all abutting property owners by certified mail. Notice was refused by one abutter at 339 Boston Post Road, East Lyme. (Applicant 1, Tab 13; Applicant 2, Response 20)
9. On October 5, 2015, the Applicant provided notice to all federal, state and local officials and agencies listed in C.G.S. §16-50(b). (Applicant 1, Tab 14)
10. Upon receipt of the application, on October 7, 2015 the Council sent a letter to the Town of East Lyme as notification that the application was received and is being processed, in accordance with C.G.S. §16-50gg. (Record)
11. During a regular Council meeting on November 12, 2015, the application was deemed complete pursuant to Regulations of Connecticut State Agencies (R.C.S.A.) §16-50-1a and the public hearing schedule was approved by the Council. (Record)
12. Pursuant to C.G.S. §16-50m, a legal notice was published in The Day on November 17, 2015 that indicated the date, location and time of the Council's public hearing to be held on December 15, 2015. (Record)
13. Pursuant to C.G.S. §16-50m, on November 13, 2015, the Council sent correspondence to the Town of East Lyme to provide notification of the scheduled public hearing and to invite the municipality to participate. (Record)
14. On November 24, 2015, the Council held a pre-hearing teleconference on procedural matters for parties and intervenors to discuss the requirements for pre-filed testimony, exhibit lists, administrative notice lists, expected witness lists, filing of pre-hearing interrogatories and the logistics of the public inspection of the site scheduled for December 15, 2015. (Council Pre-Hearing Conference Memoranda, dated November 17, 2015)
15. In compliance with R.C.S.A. §16-50j-21, the Applicant installed a four-foot by six-foot sign at the entrance to the subject property on November 30, 2015. The sign presented information regarding the project and the Council's public hearing. (Applicant 3)
16. The Council and its staff conducted an inspection of the proposed 351A Boston Post Road site on December 15, 2015, beginning at 2:00 p.m. During the field inspection, the Applicant attempted to fly a four-foot diameter red balloon at the proposed site to simulate the height of the proposed tower. Weather conditions at this time included high winds which caused three balloons to become entangled in the surrounding tree canopy. The Applicant successfully flew a 5.5-foot diameter red and yellow balloon from 8:00 a.m. to approximately 1:00 pm. when winds were calmer. (Council's Hearing Notice dated November 24, 2015; Tr. 1, pp. 17-18; Transcript 2, December 15, 2015 – 7:00 p.m. [Tr. 2], p. 1)
17. Pursuant to C.G.S. §16-50m, the Council, after giving due notice thereof, held a public hearing on December 15, 2015, beginning with the evidentiary session of the hearing beginning at 3:00 p.m. and continuing with the public comment session at 7:00 p.m. at the East Lyme Town Hall, 108 Pennsylvania Avenue, East Lyme, Connecticut. (Council's Hearing Notice dated November 13, 2015; Tr. 1, p. 1; Tr. 2, p. 1)

18. The Council continued the public evidentiary hearing on January 26, 2016 at the Council's office at 10 Franklin Square, New Britain, Connecticut. (Council's Continued Hearing Memo dated December 16, 2015; Transcript 3, January 26, 2016, 11:00 a.m. [Tr. 3], p. 1)
19. On January 22, 2016, the Council requested consent from the Applicant to extend the deadline for a decision in the proceeding until May 3, 2016. (Council Extension Request Letter dated January 22, 2016)
20. On February 12, 2016, the Applicant granted consent to extend the deadline for a decision until April 15, 2016. (Applicant Consent to Extension Letter dated February 12, 2016)
21. On March 3, 2016, the Council reviewed the Draft Findings of Fact prepared for the 351A Boston Post Road site and after conducting a non-binding straw poll in favor of the proposed facility, directed staff to draft a favorable Opinion and Decision and Order for Council review at a meeting scheduled for March 31, 2016. (Council Meeting Minutes of March 3, 2016)
22. On March 28, 2016, the Applicant requested the Council defer a final decision in this matter and granted the Council an extension of time until September 3, 2016 to render a decision to allow the Applicant enough time to thoroughly investigate a potential alternative site. In its letter, the Applicant indicated a lease extension was negotiated for the existing 2 Scott Road tower through December 31, 2017. (Applicant Request to Defer Decision and Grant Extension on Decision Deadline dated March 28, 2016)
23. On August 19, 2016, the Council requested consent from the Applicant to extend the deadline for a decision in the proceeding to the 360-day statutory deadline of September 30, 2016. (Council Extension Request Letter dated August 19, 2016)
24. On August 23, 2016, the Applicant granted consent to extend the deadline for a decision until the 360-day statutory deadline of September 30, 2016. (Applicant Consent to Extension Letter dated August 23, 2016)
25. On September 14, 2016 the Applicant submitted an amendment to the application for an alternative tower site located at 2 Arbor Crossing in East Lyme, Connecticut (Alternate Site). (Applicant's Amendment to the Application received September 14, 2016)
26. On September 29, 2016 the Council voted to deny the application for the 351A Boston Post Road Site without prejudice and on its own motion, moved to reconsider the final decision on the application pursuant to Connecticut General Statutes § 4-181a(a) and approved a schedule to consider the alternative location. (Record)
27. Pursuant to C.G.S. §16-50m, on September 30, 2016 the Council sent correspondence to the Town of East Lyme to provide notification of the scheduled public hearing for the Alternate Site and to invite the municipality to participate. (Record)
28. Pursuant to C.G.S. §16-50m, a legal notice was published in The Day on October 4, 2016 that indicated the date, location and time of the Council's amended public hearing to be held on November 1, 2016. (Record)
29. On October 12, 2016, the Council held a pre-hearing teleconference on procedural matters for parties and intervenors to discuss the requirements for pre-filed testimony, exhibit lists, administrative notice lists, expected witness lists, filing of pre-hearing interrogatories and the logistics



of the public inspection of the site scheduled for November 1, 2016. (Council Pre-Hearing Conference Memoranda, dated October 5, 2016)

30. In compliance with R.C.S.A. §16-50j-21, on October 17, 2016 the Applicant installed a four-foot by six-foot sign at the entrance to the 351A Boston Post Road Site and the Alternate Site regarding the project and the Council's public hearing. (Applicant 14)
31. The Council and its staff conducted an inspection of the Alternate Site on November 1, 2016, beginning at 2:00 p.m. During the field inspection, the Applicant flew 4.5-foot diameter red balloon at the proposed Alternate Site to simulate the height of the proposed facility. Weather conditions were generally favorable and the balloon was afloat from 8:00 a.m. to 6:00 p.m. (Council's Hearing Notice dated September 30, 2016; Transcript 3, November 1, 2016 – 3:00 p.m. [Tr. 3], p. 58)
32. Pursuant to C.G.S. §16-50m, the Council, after giving due notice thereof, held a public hearing on the amended application on November 1, 2016 with the evidentiary session of the hearing beginning at 3:00 p.m. and continuing with the public comment session at 7:00 p.m. at the East Lyme Town Hall, 108 Pennsylvania Avenue, East Lyme, Connecticut. (Council's Hearing Notice dated September 30, 2016; Tr. 3, p. 1; Transcript 4, November 1, 2016 – 7:00 p.m. [Tr. 4], p. 69)

#### **State Agency Comment**

33. Pursuant to C.G.S. § 16-50j (g), on November 13, 2015, January 27, 2016, September 30, 2016 and November 2, 2016 the following State agencies were solicited by the Council to submit written comments regarding the proposed facilities: Department of Energy and Environmental Protection (DEEP); Department of Public Health (DPH); Council on Environmental Quality (CEQ); Public Utilities Regulatory Authority (PURA); Office of Policy and Management (OPM); Department of Economic and Community Development (DECD); Department of Agriculture (DOAg); Department of Transportation (DOT); Connecticut Airport Authority (CAA); Department of Emergency Services and Public Protection (DESPP); and State Historic Preservation Office (SHPO). (Record)
34. The Council received a response from the DOT's Bureau of Engineering and Construction on November 13, 2015 and November 3, 2016 indicating that a Highway Encroachment Permit would be required if any work is conducted within the state right of way on Route 1. (DOT Comments received November 13, 2015 and November 3, 2016)
35. The Council received a response from the DPH's Drinking Water Section on December 1, 2015, indicating that the proposed 351A Boston Post Road site does not appear to be located in a public water supply source water area. The DPH did not comment on the Alternate Site. (DPH Comment dated December 1, 2015; Record)
36. The following agencies did not respond with comment on either site: DEEP, CEQ, PURA, OPM, DECD, DOAg, CAA, DESPP, and SHPO. (Record)

#### **Municipal Consultation**

37. AT&T began preliminary discussions with the Town regarding a replacement facility in the Fall of 2013. (Applicant 1, Tab 2; Tr. 1, p. 14)

38. On April 9, 2015 AT&T, in anticipation of the decommissioning of the 2 Scott Road tower, filed Petition 1152 with the Council for a temporary tower on Ancient Highway in East Lyme. The purpose of the temporary facility was to provide limited wireless service to Route 1 and surrounding areas until a permanent replacement tower site was found. (Council Administrative Notice 29 – Petition 1152 Record)
39. The Town submitted a letter to the Council on May 8, 2015 objecting to the temporary tower site and the petition. (Council Administrative Notice 29 – Petition 1152 Record)
40. AT&T withdrew Petition 1152 without prejudice on June 8, 2015. (Council Administrative Notice 29 – Petition 1152 Record)
41. For the proposed 351A Boston Post Road site, the Applicant commenced the 90-day pre-application municipal consultation process by filing a technical report with the Town of East Lyme on June 5, 2015. A meeting with town officials to discuss the project was held on June 25, 2015. (Applicant 1, p. 24)
42. The Applicant participated in a Town-held public presentation regarding the proposed 351A Boston Post Road site on July 29, 2015. (Applicant 1, p. 24)
43. In regards to the 351A Boston Post Road site, the Town seeks mitigation of environmental impact to scenic vistas in East Lyme, specifically in the Boston Post Road area by the use of alternate facility locations, alternative technologies and configurations. (Town 1)
44. The Town submitted correspondence to the Council on October 24, 2016 indicating it does not object to the 2 Arbor Crossing site and as such, it would not participate in the Council's hearing on November 1, 2016. (Town 3; Tr. 3, p. 10)
45. The Town of East Lyme First Selectman Mark Nickerson made a limited appearance at the November 1, 2016 public hearing expressing support for the proposed 2 Arbor Crossing site. Additionally, First Selectman Nickerson indicated the Town has not received any opposition regarding the proposed Alternate Site. (Tr. 3, pp. 8-9; Tr. 4, pp. 82-83)

#### **Public Need for Service**

46. In 1996, the United States Congress recognized a nationwide need for high quality wireless telecommunications services, including cellular telephone service. Through the Federal Telecommunications Act of 1996, Congress seeks to promote competition, encourage technical innovations, and foster lower prices for telecommunications services. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
47. In issuing cellular licenses, the Federal government has preempted the determination of public need for cellular service by the states, and has established design standards to ensure technical integrity and nationwide compatibility among all systems. AT&T is licensed by the Federal Communications Commission (FCC) to provide personal wireless communication service to Connecticut, including the Town of East Lyme. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996; Applicant 1, Tab 1, RF Report p. 1 )
48. Section 253 of the Telecommunications Act of 1996 prohibits any state or local statute or regulation, or other state or local legal requirement from prohibiting or having the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)

49. Section 704 of the Telecommunications Act of 1996 prohibits local and state entities from discriminating among providers of functionally equivalent services and from prohibiting or having the effect of prohibiting the provision of personal wireless services. This section also requires state or local governments to act on applications within a reasonable period of time and to make any denial of an application in writing supported by substantial evidence in a written record. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
50. Section 704 of the Telecommunications Act of 1996 also prohibits any state or local entity from regulating telecommunications towers on the basis of the environmental effects of radio frequency emissions, which include effects on human health and wildlife, to the extent that such towers and equipment comply with FCC's regulations concerning such emissions. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
51. In February 2009, as part of the American Recovery and Reinvestment Act, Congress directed the FCC to develop a National Broadband Plan to ensure every American has "access to broadband capability." Congress also required that this plan include a detailed strategy for achieving affordability and maximizing use of broadband to advance "consumer welfare, civic participation, public safety and homeland security, community development, health care delivery, energy independence and efficiency, education, employee training, private sector investment, entrepreneurial activity, job creation and economic growth, and other national purposes." (Council Administrative Notice Item No. 18 – The National Broadband Plan)
52. Section 706 of the Telecommunications Act of 1996 requires each state commission with regulatory jurisdiction over telecommunications services to encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans, including elementary and secondary schools, by utilizing regulating methods that promote competition in the local telecommunications market and remove barriers to infrastructure investment. (Council Administrative Notice Item No. 4 – Telecommunications Act of 1996)
53. In December 2009, President Barack Obama recognized cell phone towers as critical infrastructure vital to the United States. The Department of Homeland Security, in collaboration with other federal stakeholders, state, local, and tribal governments, and private sector partners, has developed the National Infrastructure Protection Plan to establish a framework for securing our resources and maintaining their resilience from all hazards during an event or emergency. (Council Administrative Notice Item No. 11 – Presidential Proclamation 8460, Critical Infrastructure Protection)
54. In February 2012, Congress adopted the Middle Class Tax Relief and Job Creation Act to advance wireless broadband service for both public safety and commercial users. The Act established the First Responder Network Authority to oversee the construction and operation of a nationwide public safety wireless broadband network. Section 6409 of the Act contributes to the twin goals of commercial and public safety wireless broadband deployment through several measures that promote rapid deployment of the network facilities needed for the provision of broadband wireless services. (Council Administrative Notice Item No. 8 – Middle Class Tax Relief and Job Creation Act of 2012)
55. In June 2012, President Barack Obama issued an Executive Order to accelerate broadband infrastructure deployment declaring that broadband access is a crucial resource essential to the nation's global competitiveness, driving job creation, promoting innovation, expanding markets for American businesses and affording public safety agencies the opportunity for greater levels of effectiveness and interoperability. (Council Admin Notice Item No. 12 – Presidential Executive Order 13616, Accelerating Broadband Infrastructure Development)

56. Pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, also referred to as the Spectrum Act, a state or local government may not deny and shall approve any request for collocation, removal or replacement of equipment on an existing wireless tower provided that this does not constitute a substantial change in the physical dimensions of the tower. The Federal Communications Commission defines a substantial change in the physical dimensions of a tower as follows:
- a) An increase in the existing height of the tower by more than 10 percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater. Changes in height should be measured from the dimensions of the tower, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.
  - b) Adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.
  - c) Installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four, or more than one new equipment shelter.
  - d) A change that entails any excavation or deployment outside the current site.
  - e) A change that would defeat the concealment elements of the tower.
  - f) A change that does not comply with conditions associated with the siting approval of the construction or modification of the tower, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would exceed the thresholds identified in (a) – (d).

(Council Administrative Notice Item No. 8 – Middle Class Tax Relief and Job Creation Act of 2012; Council Administrative Notice Item No. 20 – FCC Wireless Infrastructure Report and Order)

57. According to state policy, if the Council finds that a request for shared use of a facility by a municipality or other person, firm, corporation or public agency is technically, legally, environmentally and economically feasible, and the Council finds that the request for shared use of a facility meets public safety concerns, the Council shall issue an order approving such shared use to avoid the unnecessary proliferation of towers in the state. (C.G.S. §16-50aa)

#### **AT&T Existing and Proposed Wireless Services**

58. AT&T would deploy 700 MHz, 850 MHz and 1900 MHz wireless services at the proposed sites. Both the 700 MHz and 1900 MHz frequencies would provide long-term evolution (4G) voice and data service with an in-building service design threshold of -83 dBm and -86 dBm, respectively. The 850 MHz frequency would provide service to older technology (2G, 2.5G, 3G) at an in-building service design threshold of -74 dBm and an in-vehicle threshold of -82 dBm. AT&T intends to phase out 2G service on January 1, 2017. (AT&T 2, R. 1, R. 3; Tr. 3, p. 63)
59. The proposed facilities are designed to replace as much wireless service as possible that is currently provided by the existing 2 Scott Road facility (refer to Figure 8). The 2 Scott Road facility is located at an approximate elevation of 337 feet above mean sea level (amsl) near the summit of Pond Hill, one of the tallest hills in the Route 1 area of East Lyme. (Applicant 1, Tab 1; Council Administrative Notice 24, Docket 67 Record)
60. The proposed facilities would provide reliable wireless service for AT&T to portions of Route 1, Lovers Lane, Dean Road, Scott Road, North Bride Brook Road, and surrounding areas including residential and commercial developments (refer to Figures 9 & 10). (Applicant 1, Tab 1 RF Report)



61. AT&T's proposed antennas would interact with the following AT&T facilities as part of its seamless wireless network:

Site Location	Distance and Direction from Proposed Tower	Antenna Centerline above ground level	Structure Type
269 Flanders Road, East Lyme	0.8 miles east	107 feet	power line facility
93 Roxbury Road, East Lyme	1.6 miles south	79 feet	water tank facility
15 Liberty Way, East Lyme	2.8 miles south	62 feet	building mount
38 Hatchetts Hill Road, Old Lyme	3.6 miles southwest	165 feet	monopole
62-1 Boggy Hole Road, Old Lyme	4.8 miles west-southwest	145 feet	monopole

(Applicant 2, R. 4)

62. The table below presents AT&T's existing 850 MHz service parameters from the existing 2 Scott Road facility and anticipated service parameters from the proposed 351A Boston Post Road site and the 2 Arbor Crossing site:

	2 Scott Road (antenna height @ 489 feet amsl)	351A Boston Post Road Site (antenna height @ 389 feet amsl)	2 Arbor Crossing Site (antenna height @ 423 feet amsl)
<b>Length of service on Main Roads</b>	4.1 miles (-82 dBm)	3.7 miles (-82 dBm)	4.3 miles (-82 dBm)
<b>Length of service on Secondary Roads</b>	16.1 miles (-82 dBm)	13.2 miles (-82 dBm)	13.2 miles (-82 dBm)
<b>Service Area</b>	3.0 square miles (-74 dBm) 6.2 square miles (-82 dBm)	2.2 sq. miles (-74 dBm) 4.1 sq. miles (-82 dBm)	2.5 sq. miles (-74 dBm) 5.4 sq. miles (-82 dBm)
<b>Population</b>	1,370 (-74 dBm) 2,389 (-82 dBm)	1,365 (-74 dBm) 2,076 (-82 dBm)	1,175 (-74 dBm) 2,016 (-82 dBm)

(Applicant 1, Tab 1, RF Report; Applicant 2, R. 5; Applicant 13, R. 3, R. 4)

63. The proposed 351A Boston Post Road facility would not be able to replace all of the reliable wireless service currently provided by the 2 Scott Road facility as AT&T's proposed antennas are approximately 100 feet lower in ground elevation than its current installation on the 2 Scott Road tower. Most of the "lost" service would be along Scott Road and Route 1 west of North Bride Brook Road. AT&T has no current plan to replace this "lost" service. (Applicant 1, Tab 1 RF Report; Tr. 1, pp. 31-32)
64. If AT&T's proposed antenna height at the 351A Boston Post Road site was reduced below 190 feet above ground level (agl), reliable service would be negatively affected along Route 1. Additionally, some wireless connectivity loss to adjacent AT&T facilities would occur. Specific coverage loss includes four separate 0.1 mile areas on Route 1, a 0.2 mile section on Goldfinch Terrace, 0.1 mile on Upper Pattagansett Road, and 0.1 mile on Nelson Road. (AT&T 10, R. 4; Tr. 1, p. 66)
65. Although the proposed 2 Arbor Crossing site generally offers more wireless service than the 351A Boston Post Road site, it does not adequately service a 0.4 mile long area along Boston Post Road in the Lovers Lane area. Degraded service in this area would most likely occur during leaf-on conditions where the foliage blocks some of the signal. The proposed 351A Boston Post Road site offered more service to this major road. The existing 2 Scott Road site does not adequately service this area. (Applicant 11, Tab 1; Tr. 4, pp. 31-32, 40)

**Site Selection**

66. The search for a tower site in this area dates to the Fall of 2013 when ATC and AT&T were separately examining properties that could host a telecommunications tower. (Applicant 1, Tab 2; Tr. 1, pp. 14, 37)
67. The search included investigating whether existing towers or other sufficiently tall structures were available within the Applicant's search area that could provide adequate wireless service for AT&T. No such structures were identified. (Applicant 1, Tab 2)
68. Given the topography of the area, characterized by hilly terrain to the northwest and southeast of Route 1, both AT&T and ATC focused their search for suitable properties in the area around Pond Hill, site of the 2 Scott Road facility and The Orchards residential development, and along high elevation terrain on Wilson Hill in the Ancient Highway area. (Applicant 1, Tab 2, Tab 8 topographic map)
69. In addition to the proposed sites, the Applicant investigated numerous other parcels including sites suggested by the Town, BHSO Community Conservancy, and the Council. None of the investigated or suggested parcels were suitable for telecommunications use, as indicated in the table below:

Location	Parcel Size (acres)	Reason for rejection
351B Boston Post Road	7.27	Property owner not interested
405 Boston Post Road	39.7	Property owner not interested
Hathaway Road (M35.0/L23)	152	Property owner not interested
Scott Road (M34.0/L9)	44	Rejected by AT&T radio frequency engineers
24 Sunrise Trail (Rear)	4.1	Property owner not interested
171 Boston Post Road (light duty tower at Public Safety Complex)	61	Rejected by AT&T radio frequency engineers
Stone Ranch (existing tower)	1026	Rejected by AT&T radio frequency engineers and not available per property owner (CT Military Dept.)
6 Stone Ranch (near former airfield)	1026	Rejected by AT&T radio frequency engineers
415 Boston Post Road	34.4	Rejected by AT&T radio frequency engineers
12 Scott Road	3.2	Rejected by AT&T radio frequency engineers
Scott Road (M29.0/L11)	34	Rejected by AT&T radio frequency engineers
405 Boston Post Road (M29.0/L31)	39.7	Rejected by AT&T radio frequency engineers
291 N. Bride Brook (M24.0/L95)	53.5	Rejected by AT&T radio frequency engineers
430 Boston Post Road	18.9	Rejected by AT&T radio frequency engineers
440 Boston Post Road (water tank)	0.3	Rejected by AT&T radio frequency engineers
Marion Drive (M25.0/L32)	35.4	Town owned open space not available and rejected by AT&T radio frequency engineers
Ancient Highway, Drabik lot M30.0/L1	8.6	Site acceptable to AT&T but site given adverse effect determination by Mohegan Tribe. Location of Petition 1152

Ancient Highway Drabik lots M30.0/L2 & M25.0/L31	4.2 & 21	Site acceptable to AT&T but site given adverse effect determination by Mohegan Tribe
286 Flanders Road	79	Gateway development area acceptable to AT&T but area given adverse effect determination by Mohegan Tribe
18 Drabik Road	6.5	Rejected by AT&T radio frequency engineers
Drabik Road (Cedar Ridge G.C.)	77.2	Rejected by AT&T radio frequency engineers
16 Mostoway Road	301.5	Rejected by AT&T radio frequency engineers
83-89 Upper Pattagansett Road	53.8	Rejected by AT&T radio frequency engineers
29 Goldfinch Terrace	200.5	Rejected by AT&T radio frequency engineers
300 Flanders Road	2.4	Rejected by AT&T radio frequency engineers
11 Industrial Park Road	4.8	Rejected by AT&T radio frequency engineers
49 Industrial Park Road	8.4	Rejected by AT&T radio frequency engineers
63 Scott Road	Not available	Rejected by AT&T radio frequency engineers
397 Boston Post Road	Not available	Rejected by AT&T radio frequency engineers
21 Legendary Road	Not available	Rejected by AT&T radio frequency engineers
12 Seebeck Road	Not available	In area determined by MTHPO as culturally significant
Flanders Lane (M31/L1)	Not available	Rejected by AT&T radio frequency engineers and in area determined by Mohegan Tribe as culturally significant
Ancient Highway (M25/L30)	Not available	Rejected by AT&T radio frequency engineers and in area determined by Mohegan Tribe as culturally significant
84 Lovers Lane (M25.1/L85)	Not available	Rejected by AT&T radio frequency engineers
94 Lovers Lane (M25.1/L88)	Not available	Rejected by AT&T radio frequency engineers

(Applicant 1, Tab 2; Applicant 2, R. 18, R. 19; Applicant 9, R. 3)

70. Both the Drabik parcel (M30.0/L1) and the 286 Flanders Road Gateway parcel were acceptable to AT&T. During the municipal consultation process, the Applicant submitted a technical report to the Town that proposed a tower on both of these parcels as well as at 351A Boston Post Road. During the Applicant's FCC-mandated National Environmental Policy Act (NEPA) review process, the Mohegan Tribal Historic Preservation Office (MTHPO) performed a site visit of the Ancient Highway area where these two sites were located. The MTHPO indicated that due to potential tribal features on an abutting parcel and the potential historic use of the Ancient Highway by the tribe, development of a tower in the Ancient Highway area would have an adverse effect on tribal cultural resources and the historic landscape of the Ancient Highway area. Given this adverse effect determination, the Applicant would not be able to obtain NEPA approval for telecommunications use of these two parcels as well as other potential tower locations in the general area of Ancient Highway. Given this determination, these two locations were not submitted as candidates in the Application to the Council. (AT&T 1, Tab 2; Applicant 2, R. 19; Tr. 3. pp. 38-49, 80-92)
71. A parcel owned by the Town located east of Marion Drive (M25.0/L32) is considered Town Open Space and is not available to the Applicant. (Town 2, R. 3; Tr. 3, p. 17)

72. The Applicant examined locations at the Stone Ranch parcel, specifically the existing telecommunications tower located at the highest point on the property and a location adjacent to the former airfield at a lower elevation. Both locations are not suitable for AT&T as they would not provide adequate coverage. Even if the existing tower was at a height of 400 feet agl, coverage would still be deficient. Although Stone Ranch is a large parcel, other locations on this property would not be suitable because the property is located too far west of the target service area on Route 1. Furthermore, the CT Military Department, operators of Stone Ranch, would not permit use of the existing tower or the other areas of the Stone Ranch parcel for commercial telecommunications use. (Applicant 1, Tab 2; Applicant 2, R. 18; Applicant 9, R. 1, R. 2, R. 3)
73. AT&T examined possible use of the 45-foot tall Town-owned water tank at 440 Boston Post Road but the tank is too short to meet wireless service objectives. Installing a tower on the parcel would not be feasible given the parcel's small size (0.32 acre) and location adjacent to a residence. Additionally, AT&T determined the site would not provide adequate coverage even if antennas were installed at 199 feet agl in this location. (Applicant 1, Tab 2; Applicant 2, R. 18; Applicant 10, R. 4)
74. The property owner of 335 Boston Post Road, an abutting property east of the 351 Boston Post Road site, offered their property for telecommunications use. The Applicant would not pursue a location on this property given its narrow width, steep grade, and lack of existing access to the rear of the parcel. (Tr. 1, pp. 86-87)
75. Utilizing microcells, distributed antenna systems, repeaters or other types of transmitting technologies are not feasible to replace the wireless services currently provided by the existing 2 Scott Road tower. These technologies are better suited for specific localized areas where coverage and capacity are needed, such as commercial buildings, stadiums and tunnels. (Applicant 1, p. 13)

#### **Proposed Facility Description – 351A Boston Post Road**

76. The proposed facility consists of a 194-foot monopole located on an approximately 7.2-acre flag shaped parcel at 351A Boston Post Road in East Lyme. The parcel is located on the southeast side of Pond Hill. (Applicant 1, p. 15, Tab 4, Tab 8)
77. The parcel is located northwest of Route 1 and contains a single family residence (refer to Figure 2). The parcel is accessed from a paved driveway extending uphill from Route 1. The driveway is shared with an abutter to the north at 351B Boston Post Road. There are no restrictions in the property deed that would limit the Applicant's access to the proposed site. (Applicant 1, Tab 4; Applicant 10, R. 9; Tr. 1, p. 18)
78. The subject property is zoned Residential (RU-40). (Applicant 1, Tab 4)
79. Land use immediately surrounding the subject parcel is residential. Seven developed residential properties are to the south, downhill, between the property line and Route 1. A developed residential property is located to the north at 351B Boston Post Road. Residential development is also located to the west in The Orchards residential development and to the east/northeast. (Applicant 1, Tab 4, Tab 8)
80. The tower site is located in a wooded, eastern portion of the property, at an elevation of approximately 200 feet above mean sea level (refer to Figure 3). (Applicant 2, Tab D)
81. The property owner's residence is approximately 320 feet west of the proposed tower site. (Applicant 1, Tab 4, Sheet C-1.0)



82. The proposed tower site is 100 feet from the north property line (351B Boston Post Road) and 152 feet from the east property line (335 Boston Post Road). (Applicant 2, R. 11)
83. The nearest abutting residence to the proposed tower site is approximately 397 feet to the south at 341 Boston Post Road. (Applicant 1, Tab 4, Sheet C-1.0; Applicant 2, Tab E)
84. There are approximately 39 residential dwellings within 1,000 feet of the proposed tower site. (Applicant 2, R. 10)
85. The proposed 194-foot monopole would be designed to accommodate up to four wireless antenna platforms. It would have an approximate diameter of 60 inches at the base and 42 inches at the top (refer to Figure 4). (Applicant 1, Tab 3, Tab 4)
86. The monopole would have a gray, galvanized steel finish. The Applicant would be willing to paint the antennas and antenna mounts a gray color to match the monopole finish. (Applicant 1, p. 21; Applicant 10, R. 2)
87. AT&T would install up to 12 panel antennas and 27 remote radio units on an antenna platform at a centerline height of 190 feet agl. The total height of the facility with antennas would be 194 feet agl. (AT&T 1, Tab 4)
88. T-Mobile intends to locate at the 180-foot level of the proposed facility. A lease most likely would be signed with ATC if the facility is approved for construction. (Applicant 1, Tab 7; Tr. 1, p. 67)
89. A 60-foot by 100-foot tower equipment compound would be established within a 70-foot by 120-foot lease area. (Applicant 1, Tab 4)
90. AT&T proposes to install an 11.5-foot by 16-foot equipment shelter within the compound. (Applicant 1, p. 15)
91. Two HVAC units would be attached to AT&T's proposed equipment shelter to provide air conditioning and heating to the equipment shelter. Typically, only one of the HVAC units operates at a time. (AT&T 2, Tab A)
92. The proposed equipment compound would be surrounded by an eight-foot high, anti-climb chain-link fence. The compound and AT&T's equipment shelter would be locked for security purposes. (Applicant 2, R. 13)
93. Underground utilities would be installed to the compound from existing service along the paved residential driveway. (Applicant 1, p. 15)
94. Existing ground elevation in the proposed compound area varies by 12 feet. Construction would require cut and fill (balanced) to create a compound surface. Retaining walls on the uphill and downhill slopes would be constructed to stabilize adjacent slopes. (Applicant 2, Tab D; Tr. 1, p. 23)
95. Access to the proposed compound would utilize the existing paved residential driveway on the west edge of the property for approximately 360 feet. Access would proceed east onto an existing dirt pathway that extends into the eastern portion of the property. The dirt path would be resurfaced, graded, widened to a travel width of 12 feet, and extended to a total length of approximately 700 feet. (Applicant 1, Tab 3; Applicant 2, Tab D; Tr. 1, p. 18)

96. The grade of the existing paved driveway is approximately 15 percent. The grade of the proposed access drive that follows the dirt path is three to five percent but reaches eight percent near the compound. (Tr. 1, pp. 20-22)

97. ATC would be the Certificate Holder for the 351A Boston Post Road facility. The estimated cost of the proposed facility is:

Tower and Foundation	\$150,000
Site Development	105,000
Utility Installation	85,000
AT&T Antennas and Equipment	<u>\$250,000</u>
Total Estimated Costs	\$590,000

(Applicant 1, pp. 5, 25)

### **Proposed Facility Description – 2 Arbor Crossing**

98. The proposed facility consists of a 105-foot faux silo and associated structures located on an approximately 5.2-acre parcel at 2 Arbor Crossing in East Lyme. The parcel is located near the summit of Pond Hill (refer to Figure 5). (Applicant 11, p. 14, Tab 3)

99. The parcel is developed with a clubhouse, recreational areas and the existing 2 Scott Road tower. The proposed facility site is located 240 feet south of the 2 Scott Road tower and immediately north of the clubhouse pool (refer to Figure 6). (Applicant 11, pp. 8-9, Tab 3)

100. The subject property is zoned Residential (RU-40) and is located adjacent to undeveloped lots within The Orchards residential development. Residential development within the Orchards has occurred mainly to the south and west of the proposed tower site. (Applicant 11, p. 14, Tab 3; Applicant 13, R. 2)

101. The proposed facility is located in the wooded, northern portion of the property, at an elevation of approximately 335 feet amsl. (Applicant 11, Tab 2)

102. The proposed faux silo is approximately 82 feet east of the undeveloped residential lots at 5 Pumpkin Grove and 7 Pumpkin Grove. (Applicant 11, Tab 3)

103. The nearest residence to the proposed faux silo is approximately 450 feet to the south at 35 Plum Hill Road. (Applicant 11, Tab 3)

104. There are approximately 28 residential dwellings within 1,000 feet of the proposed faux silo. (Applicant 11, Tab 3)

105. The 105-foot faux silo would be designed to accommodate up to four wireless antenna platforms that would be contained within the silo structure. The uppermost platform within the silo would be located at a centerline height of 95 feet (refer to Figure 7). (Applicant 11, Tab 3)

106. The faux silo would have an approximate diameter of 22-24 feet. (Applicant 11, Tab 3; Tr. 3, pp. 17-18)

107. The faux silo would be painted a gray color with white trim. (Applicant 11, Tab 3; Tr. 3, p. 24)

108. AT&T would install up to 12 panel antennas and associated remote radio units on an antenna platform at a centerline height of 95 feet agl. (Applicant 11, Tab 3)
109. Both T-Mobile and Cellco have expressed interest in locating at the facility. (Record)
110. A 35-foot wide by 50-foot long by 35-foot high faux barn equipment building would be constructed to house ground equipment for facility tenants. A gravel apron would be established on the north side of the building. (Applicant 11, Tab 3)
111. The faux barn would be of wood frame construction and painted red with white trim. Colored vinyl siding may also be used. (Applicant 11, Tab 3; Tr. pp. 24-25)
112. The faux silo and faux barn would be located within a 100-foot by 100-foot lease area. A decorative four-foot tall fence would be constructed to separate the lease area from the adjacent swimming pool area. (Applicant 11, Tab 3)
113. Existing ground elevation in the proposed facility construction area varies by 15 feet. Construction would require cut and fill (balanced) to create a compound surface. Riprap slopes would be established on the south side of the silo to stabilize an embankment adjacent to the swimming pool yard. (Applicant 11, Tab 3; Tr. 3, pp. 37-38, 49-51)
114. Access to the facility would be from a new 12-foot wide gravel driveway extending along the west edge of 4 Arbor Crossing for approximately 250 feet, then an additional 125 feet on the subject parcel to the faux barn. A vehicle turnaround area would be established on the east side of the faux barn. (Applicant 11, Tab 3)
115. Underground utilities would be installed from Arbor Crossing to the compound along the access drive. (Applicant 11, Tab 3)
116. AT&T would be the Certificate Holder for the 2 Arbor Crossing facility. The estimated cost of the proposed facility is:

Tower and Foundation	\$550,000
Site Development	105,000
Utility Installation	85,000
AT&T Antennas and Equipment	<u>\$250,000</u>
Total Estimated Costs	\$990,000

(Applicant 11, pp. 7, 20)

#### **Public Safety**

117. The Wireless Communications and Public Safety Act of 1999 (911 Act) was enacted by Congress to promote and enhance public safety by making 9-1-1 the universal emergency assistance number, by furthering deployment of wireless 9-1-1 capabilities, and by encouraging construction and operation of seamless ubiquitous and reliable networks for wireless services. (Council Administrative Notice Item No. 6 - Wireless Communications and Public Safety Act of 1999)
118. The proposed facility would be in compliance with the requirements of the 911 Act and would provide Enhanced 911 services. (Applicant 1, p. 12)

119. Wireless carriers have voluntarily begun supporting text-to-911 services nationwide in areas where municipal Public Safety Answering Points support text-to-911 technology. Text-to-911 will extend emergency services to those who are deaf, hard of hearing, have a speech disability, or are in situations where a voice call to 911 may be dangerous or impossible. However, even after a carrier upgrades its network, a user's ability to text to 911 is limited by the ability of the local 911 call center to accept a text message. The FCC does not have the authority to regulate 911 call centers; therefore, it cannot require them to accept text messages. (Council Administrative Notice Item No. 21 – FCC Text-to-911: Quick Facts & FAQs)
120. Pursuant to the Warning, Alert and Response Network Act of 2006, "Wireless Emergency Alerts" (WEA) is a public safety system that allows customers who own certain wireless phone models and other enabled mobile devices to receive geographically-targeted, text-like messages alerting them of imminent threats to safety in their area. WEA complements the existing Emergency Alert System that is implemented by the FCC and FEMA at the federal level through broadcasters and other media service providers, including wireless carriers. (Council Administrative Notice Item No. 5 – FCC WARN Act)
121. The proposed facilities would be constructed in accordance with the American National Standards Institute "Structural Standards for Steel Antenna Towers and Antenna Support Structures" Revisions F and G. (Applicant 1, Tab 3; Applicant 11, Tab 2)
122. The proposed facilities would not constitute an obstruction or hazard to air navigation and would not require any obstruction marking or lighting. (Applicant 1, Tab 3; Applicant 11, Tab 2)
123. AT&T's equipment area would be remotely monitored 24/7 and equipped with silent intrusion and system alarms. (Applicant 2, R. 13)
124. The tower set back radius for the 351A Boston Post Road facility extends beyond the north property boundary by 94 feet and to the east by 42 feet. The tower set back radius for the 2 Arbor Crossing facility extends onto two undeveloped residential lots to the west by 23 feet. (Applicant 2, p. 11; Applicant 11, Tab 3)
125. The cumulative worst-case maximum power density from the radio frequency emissions from the operation of AT&T's proposed and T-Mobile's potential antennas is 3.41 percent of the standard for the General Public/Uncontrolled Maximum Permissible Exposure, as adopted by the FCC, at the base of the proposed 351A Boston Post Road tower and 15.4 percent at the base of the 2 Arbor Crossing facility. This calculation was based on methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997) that assumes all antennas in a sector would be pointed at the base of the tower and all channels would be operating simultaneously, which creates the highest possible power density levels. Under normal operation, the antennas would be oriented outward, directing radio frequency emissions away from the tower, thus resulting in significantly lower power density levels in areas around the tower. (Applicant 1, Tab 6; Applicant 11, Tab 6; Council Administrative Notice Item No. 2 – FCC OET Bulletin No. 65)

#### **Emergency Backup Power**

126. In response to two significant storm events in 2011, Governor Malloy formed a Two Storm Panel (Panel) that was charged with an objective review and evaluation of Connecticut's approach to the prevention, planning and mitigation of impacts associated with emergencies and natural disasters that can reasonably be anticipated to impact the state. (Council Administrative Notice Item No. 49 - Final Report of the Two Storm Panel)



127. In response to the findings and recommendations of the Panel, and in accordance with C.G.S. §16-50//, the Council, in consultation and coordination with the Department of Energy and Environmental Protection, the Department of Emergency Services and Public Protection and the Public Utilities Regulatory Authority (PURA), studied the feasibility of requiring backup power for telecommunications towers and antennas as the reliability of such telecommunications service is considered to be in the public interest and necessary for the public health and safety. The study was completed on January 24, 2013. (Council Administrative Notice Item No. 27 – Council Docket No. 432)
128. The Council reached the following conclusions in the study:
- a) “Sharing a backup source is feasible for CMRS providers, within certain limits. Going forward, the Council will explore this option in applications for new tower facilities;” and
  - b) “The Council will continue to urge reassessment and implementation of new technologies to improve network operations overall, including improvements in backup power.”
- (Council Administrative Notice Item No. 27 – Council Docket No. 432)
129. A shared diesel powered emergency generator would be installed at either facility that could supply up to four telecommunications carriers for 48 hours before it would require re-fueling. A 300 gallon diesel fuel tank would be located within the emergency generator unit. The tank would be double walled for leak prevention. (Applicant 2, R. 16; Tr. 1, pp. 28-31, 92-93; Applicant 11, Tab 3, Tab 4; Tr. 4, p. 48-49)
130. According to R.C.S.A. §22a-69-1.8, noise created as a result of, or relating to, an emergency, such as an emergency backup generator, is exempt from the State Noise Control Regulations. (R.C.S.A. §22a-69-1.8)

#### Environmental Considerations

131. No historic or cultural resources would be affected by the proposed facilities. (Applicant 1, p. 18, Tab 12; Applicant 11, tab 4; Tr. 3, pp. 27-28)
132. The site properties do not contain any wetlands or watercourses. The nearest wetland to the 351A Boston Post Road facility is located 900 feet to the south, on private property south of Route 1. The nearest wetland to the 2 Arbor Crossing facility is 1,330 feet to the west. Development of either site would not affect these wetlands. (Applicant 1, p. 19, Tab 6; Applicant 11, Tab 4, Tab 5)
133. Post-construction stormwater controls for the 351A Boston Post Road facility would be designed to maintain existing natural drainage patterns and are designed for a 100-year storm event. Stormwater control features for the site include rip rap lined swales in the compound and access drive area, level spreaders along the access drive and two to three underground detention chambers installed along the access drive to collect runoff from the swales. (Applicant 2, Tab D; Tr. 1, pp. 24-27)
134. The underground detention chambers would measure two feet in diameter by eight feet long, surrounded by two feet of gravel to allow for chamber discharge percolation into the soil. The underground system is being used at this site given the relatively close distance of the development area to the south property line. (Tr. 1, pp. 27-28, 73-75)
135. Although a geotechnical study was not undertaken on the 351A Boston Post Road property, given the presence of ledge outcroppings, some blasting and or chipping may be required to install the access drive, tower foundation and site detention system. If significant ledge is encountered, the stormwater control system may have to be redesigned to account for existing soil conditions. (Tr. 1, pp. 29, 73-75)

136. Stormwater controls for the 2 Arbor Crossing facility would be incorporated into the stormwater controls established for the Orchards residential development. A swale would be constructed from the faux barn area that would extend south along the access road to a future catch basin that would be constructed when the roadway for Arbor Crossing is constructed. Presently, the roadway is partially constructed. (Applicant 11, p. 12, Tab 3; Tr. 3, p. 33)
137. Construction erosion and sedimentation controls would consist of straw bales, silt fencing and natural fiber erosion control blankets, where necessary. If approved, the final details of the construction erosion and sedimentation control plan would be provided in the D&M Plan. (Applicant 2, Tab D; Applicant 11, Tab 3)
138. Both sites are located in the Federal Emergency Management Agency Zone X, an area outside of the 500-year flood zone. (Applicant 1, Tab 4)
139. Approximately 0.4 acre of woodland would be cleared to develop either site. Both sites are in edge habitats and would not result in the fragmentation of a core forest block. (Applicant 2, R. 14; Tr. 1, pp. 14, 53-54; Applicant 11, Tab 3; Tr. 3, p. 28)
140. Several forest openings occur on either side of the proposed access drive to the 351A Boston Post Road site. The Applicant would examine relocating part of the access drive into these openings in order to reduce the amount of necessary tree clearing. Several trees would be trimmed along the existing paved driveway to accommodate construction vehicles. (Tr. 1, pp. 20-21)
141. A review of the project's potential impact on plant and animal species determined that the northern long-eared bat, a federally-listed Threatened Species and State-listed Endangered Species, the red bat, a State Species of Special Concern, and the small whorled pogonia, a federally-listed Threatened Species, were recorded as occurring in the general area of both sites. (DEEP 2015 revision to State Listed Species; Applicant 1, p. 18; Applicant 11, p. 11)
142. The Applicant surveyed the site properties for the northern long-eared bat and the small whorled pogonia and did not find either species or any associated suitable habitat. Although the Applicant sent information regarding the northern long-eared bat to the USFWS, the USFWS did not provide comment on the project. (Applicant 2, R. 14; Applicant 13, R. 5)
143. DEEP recommended a tree clearing restriction from May 1 to August 15 to avoid potential impacts to the red bat, a tree roosting species that favors large diameter trees. (Applicant 1, p. 17, Tab 9; Tr. 3, p. 29)
144. The proposed facilities are not located near a National Audubon Society designated Important Bird Area (IBA). The nearest IBA to the either proposed site is the Connecticut College Arboretum, approximately six miles to the northeast. (Council Administrative Notice Item No. 75; Applicant 1, Tab 9)
145. The proposed facilities are approximately 3 miles east of the nearest waterfowl focus area, a designation that recognizes the most important habitats for waterfowl along the Atlantic Flyway, a regional primary migratory bird flyway. (Applicant 1, Tab 10; Applicant 11, Tab 3)
146. The proposed facilities would comply with the USFWS guidelines for minimizing the potential impact of telecommunications towers on bird species. (Council Administrative Notice Item No. 13; Applicant 1, Tab 10; Applicant 11, p. 11)

147. Noise from HVAC units from the proposed 351A Boston Post Road facility would not exceed State Noise Control Regulations at the property boundaries. No specific noise information was provided for the 2 Arbor Crossing facility. (Applicant 2, Tab A; Record)

### **Visibility**

148. Pursuant to C.G.S § 16-50p(a)(3)(F), no schools or commercial child day care centers are located within 250 feet of either tower site. The nearest school, Flanders School, is over 2 miles to the east of the sites approximately 1.6 miles east-northeast of the sites. The nearest commercial child day care facility is over two miles to the east-southeast of the sites. (Applicant 1, Tab 8 p. 6; Applicant 11, Tab 3, Tab 7)
149. There are no hiking trails designated by the Connecticut Forest and Parks Association or DEEP within two miles of either site. (Applicant 1, Tab 8; Council Administrative Notice Item No. 65)
150. There are no state or locally-designated scenic roads located within two-miles of the either site. (Applicant 1, Bulk File, Town of East Lyme Plan of Conservation and Development)

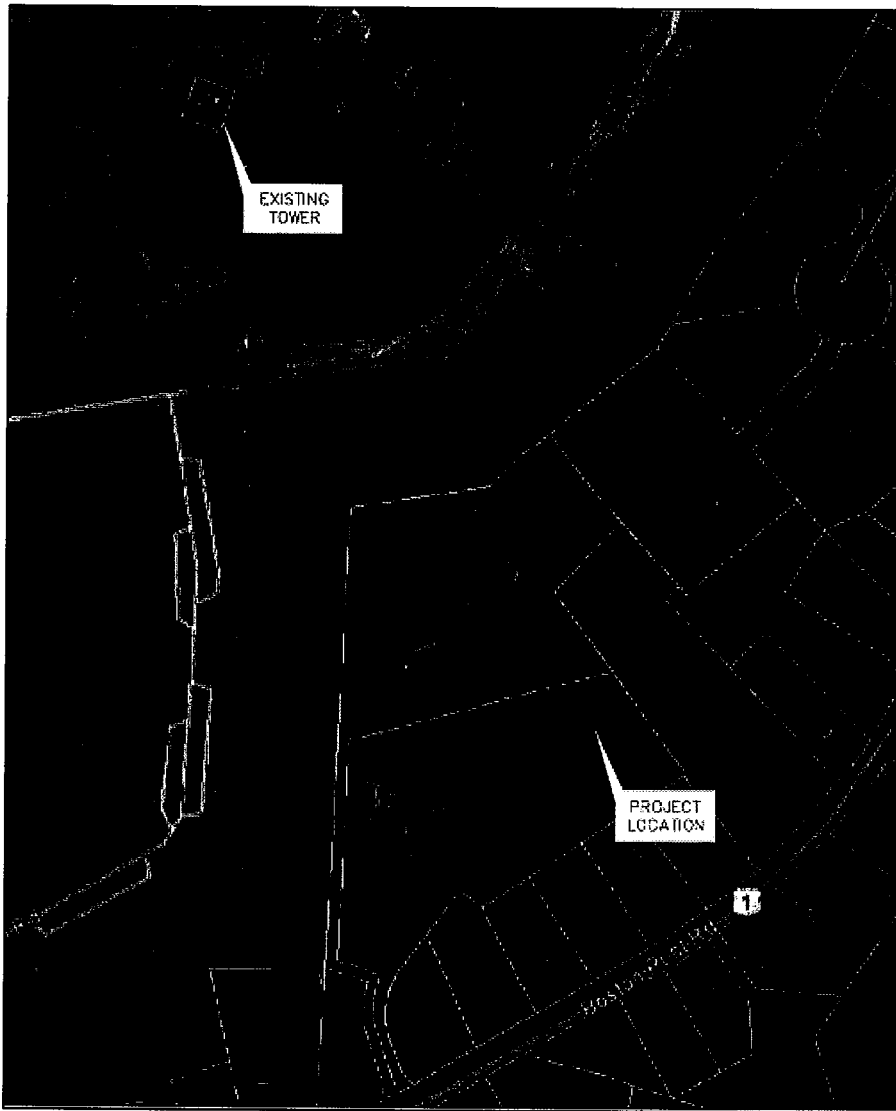
### **351 Boston Post Road Monopole Facility**

151. The proposed 351A Boston Post Road tower would be visible year-round from approximately 115 acres within a two-mile radius of the site (refer to Figure 11), with about a third of the visibility occurring over the open waters of Pattagansett Lake northeast of the site. The tower would be seasonally visible from approximately 844 acres within a two-mile radius of the site. (Applicant 8)
152. Generally, year-round views of portions of the facility would occur from locations in the immediate area surrounding the site, as well as from areas east of the site out to a distance of 0.75 miles. Year-round views from more distant areas to the west and south are effectively blocked by hilly terrain or dense tree cover. Refer to Figure 11 and associated photo-location table. (Applicant 1, Tab 8; Applicant 8)
153. Approximately 24 residentially developed properties would have year-round views of the proposed tower. For residences with visibility within 0.25 miles of the site, the majority would have views of the upper 10 feet of the tower. (Applicant 10, R. 1)
154. Several homes, including but not limited to 351B Boston Post Road and 21 Plum Hill Road, given their location on the hillside above the tower site, would have year-round views of a substantial portion of the tower. (Applicant 8 Viewshed map; BHSO 2, photos; Tr. 3 p. 69)
155. Residences with substantial seasonal visibility of the tower would be mostly from the surrounding immediate area, including but not limited to, the residences at 24 Sunrise Trail, 342 Boston Post Road, and 345 Boston Post Road. (Applicant 8 map; BHSO 2, photos)
156. Generally, the proposed site is more visible to developed areas east of Pond Hill than the existing 2 Scott Road tower. The 2 Scott Road tower would mainly be visible from areas to the west, although most of this area is undeveloped. (Applicant 8)

**2 Arbor Crossing Faux Silo Facility**

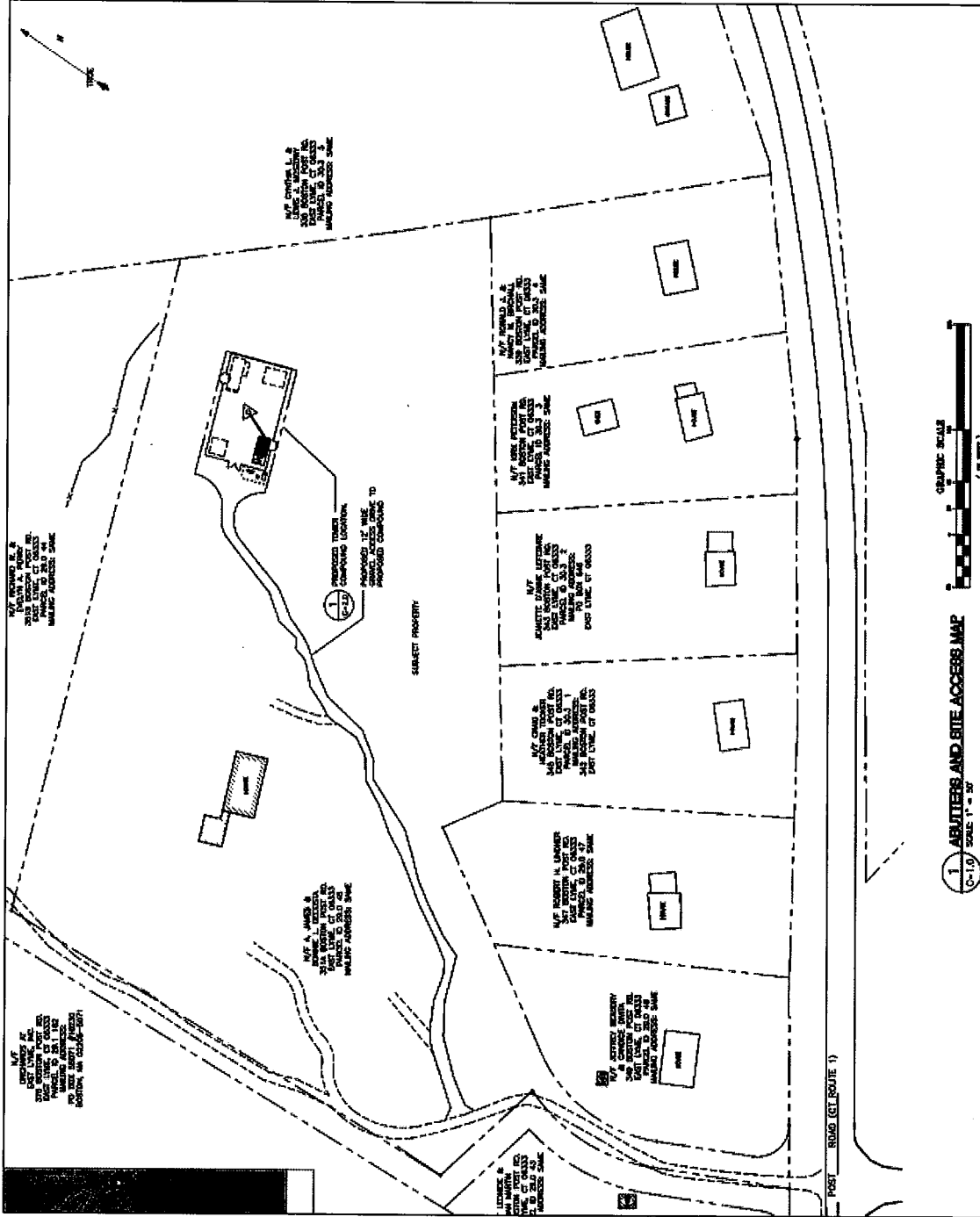
157. The proposed 2 Arbor Crossing faux silo would be visible year-round from approximately 163 acres within a two-mile radius of the site (refer to Figure 12), with about half of the visibility occurring over along the south side of Pond Hill (The Orchards area). The tower would be seasonally visible from approximately 204 acres within a two-mile radius of the site. (Applicant late file of December 1, 2016)
158. Generally, year-round views of portions of the facility would occur from locations in the immediate area surrounding the site. Most of the facility would be visible from The Orchards area. Year-round views from more distant areas are mostly confined to the upper 20 feet of the facility. Refer to Figure 12 and associated photo-location table. (Applicant 11, Tab 7; Applicant late file of December 1, 2016)
159. The faux silo would be less visible to the surrounding area than the existing 2 Scott Road facility. The antennas would be concealed within the faux silo, thus softening the visual profile when compared to a standard monopole with platform-mounted antennas. (Tr. 3, pp. 55-57)
160. The proposed 351A Boston Post Road monopole would have more of an overall visual effect than the proposed faux silo facility. (Tr. 3, pp. 55-57)
161. The residences at 351B Boston Post Road, 342 Boston Post Road, and 345 Boston Post Road are not expected to have seasonal or year-round views of the facility. (Tr. 3, pp. 57-58, 62-63)
162. The size of the faux barn would be proportional with the proposed size of the faux silo. A smaller faux barn would make the silo appear larger. (Tr. 3, pp. 53-54)

**Figure 1 – Aerial Photograph Showing Existing Tower at 2 Scott Road and the proposed 351A Boston Post Road facility on Pond Hill.**



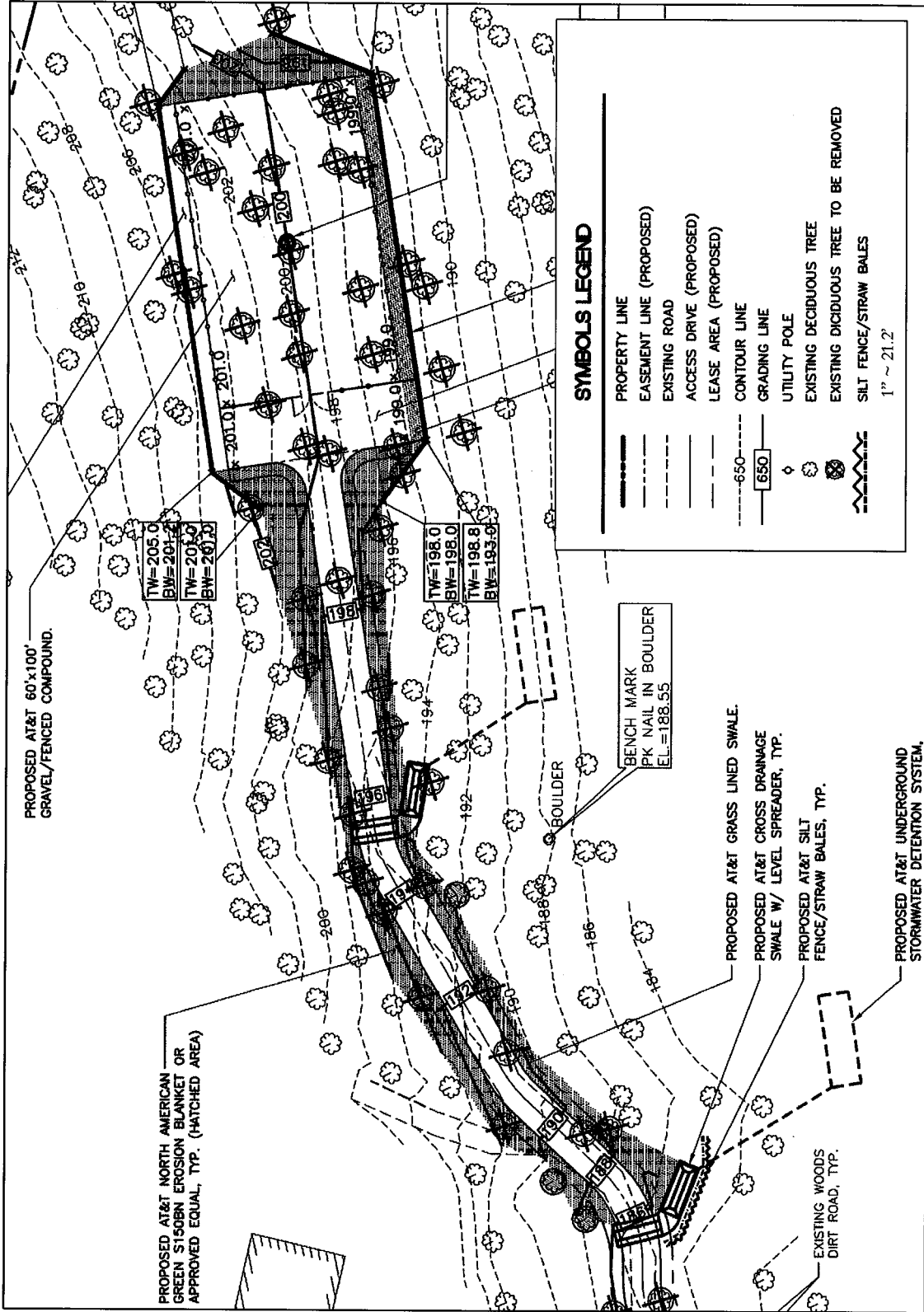
(Applicant 2, Tab E)

Figure 2 – Proposed 351A Boston Post Road Site Plan



(Applicant 1, Tab 4 – Sheet C-1.0)

Figure 3: Proposed 351A Boston Post Road Compound Area Plan Detail

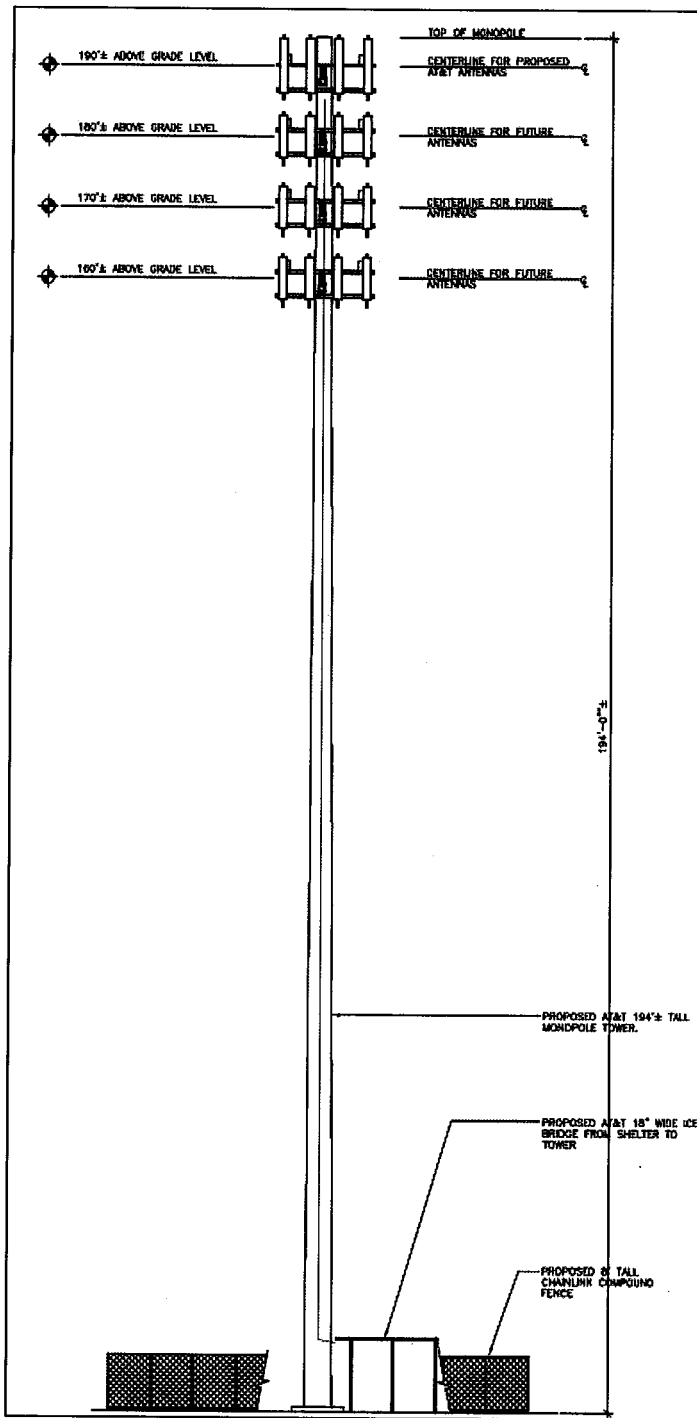


**SYMBOLS LEGEND**

- PROPERTY LINE
  - EASEMENT LINE (PROPOSED)
  - EXISTING ROAD
  - ACCESS DRIVE (PROPOSED)
  - LEASE AREA (PROPOSED)
  - CONTOUR LINE
  - GRADING LINE
  - UTILITY POLE
  - EXISTING DECIDUOUS TREE
  - EXISTING DECIDUOUS TREE TO BE REMOVED
  - SILT FENCE/STRAW BALES
- 1" ~ 21.2'

(Applicant 2, Tab D)

Figure 4 – 351A Boston Post Road Tower Profile Drawing



(Applicant 1, Tab 1 – Sheet C-2.0)



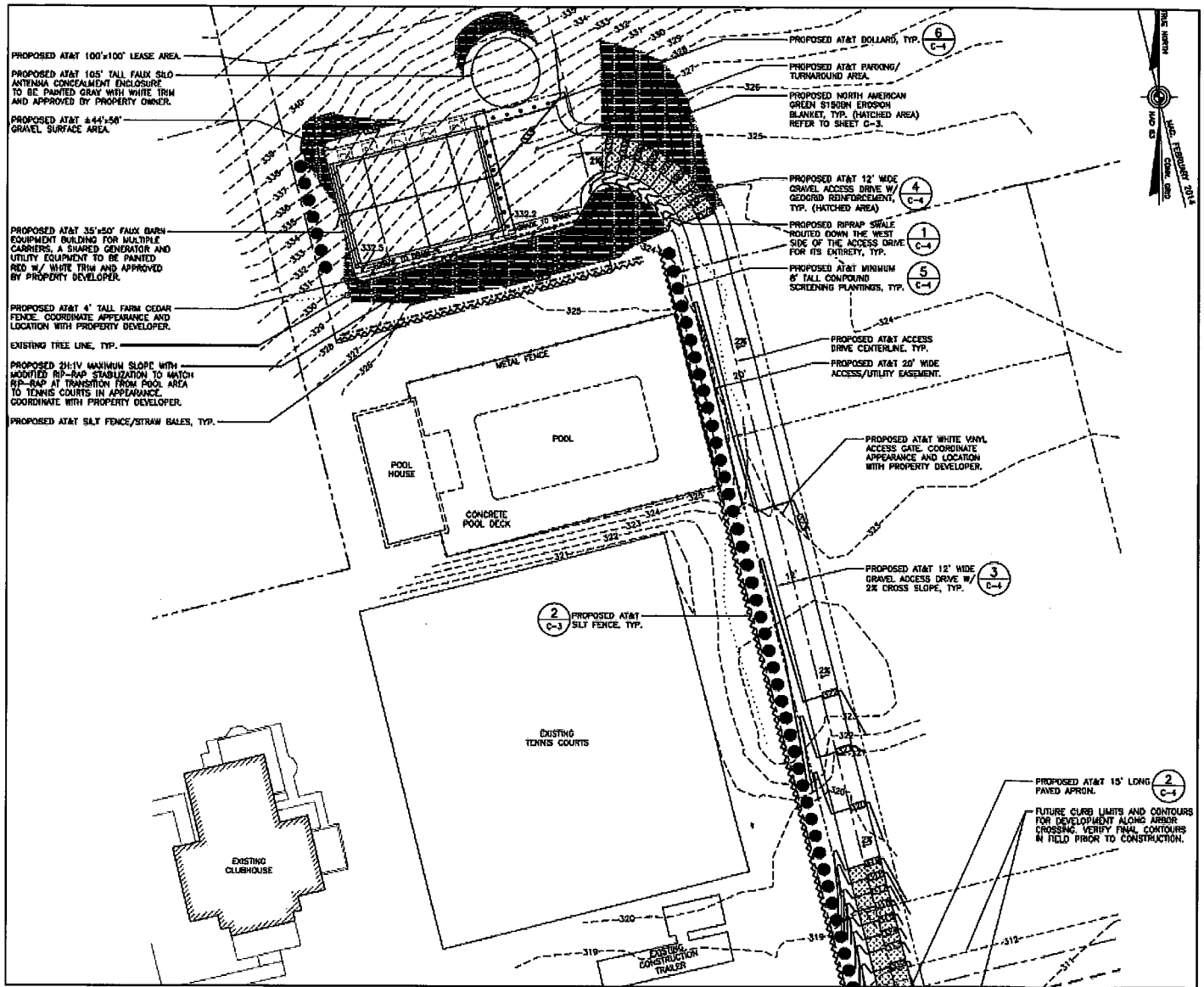
**Figure 5 – Aerial Photograph Showing Existing Tower at 2 Scott Road and the proposed 2 Arbor Crossing facility.**



(Applicant 11, Tab 5)

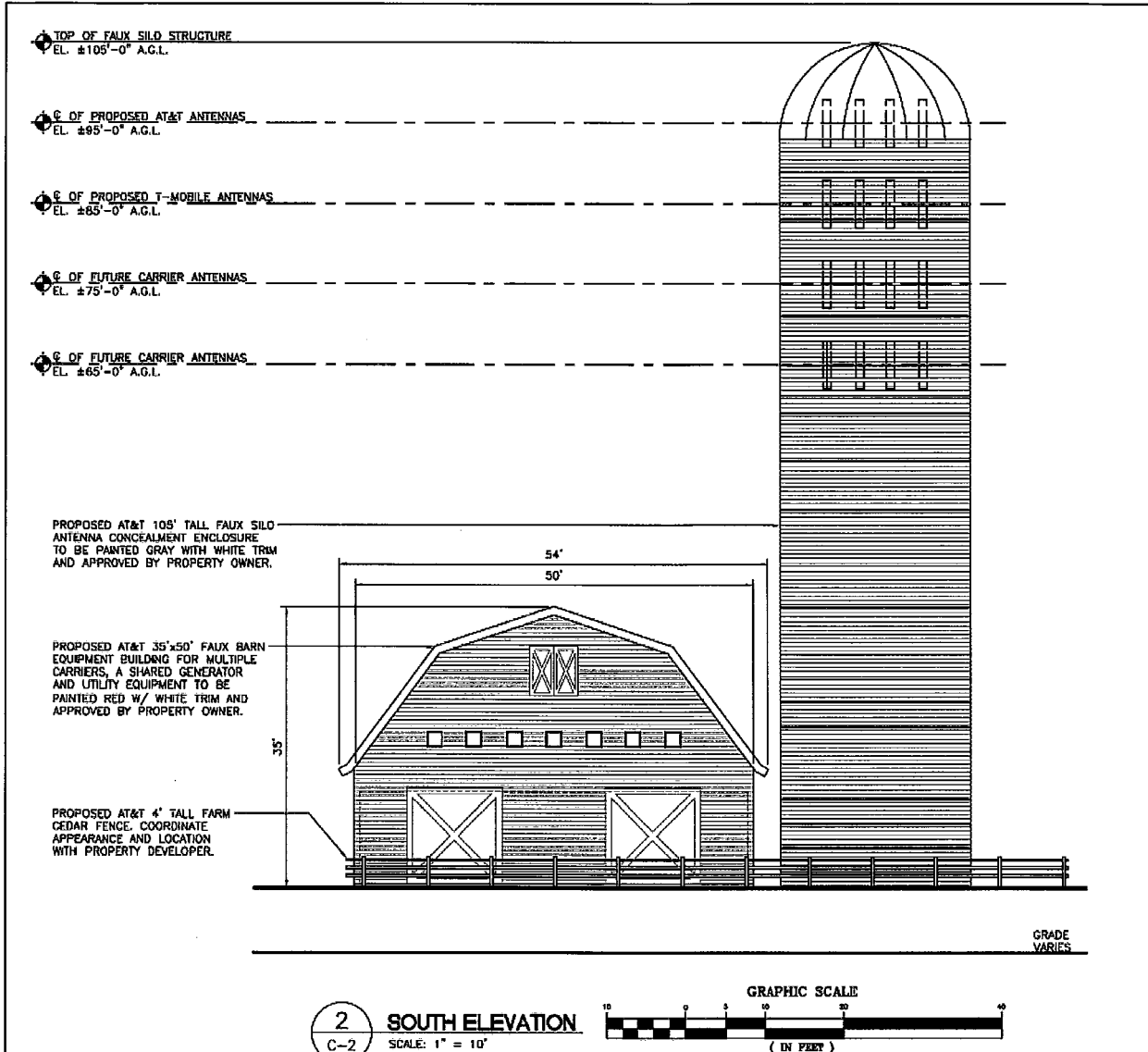


Figure 6 – Proposed 2 Arbor Crossing facility site plan



(Applicant 11, Tab 3)

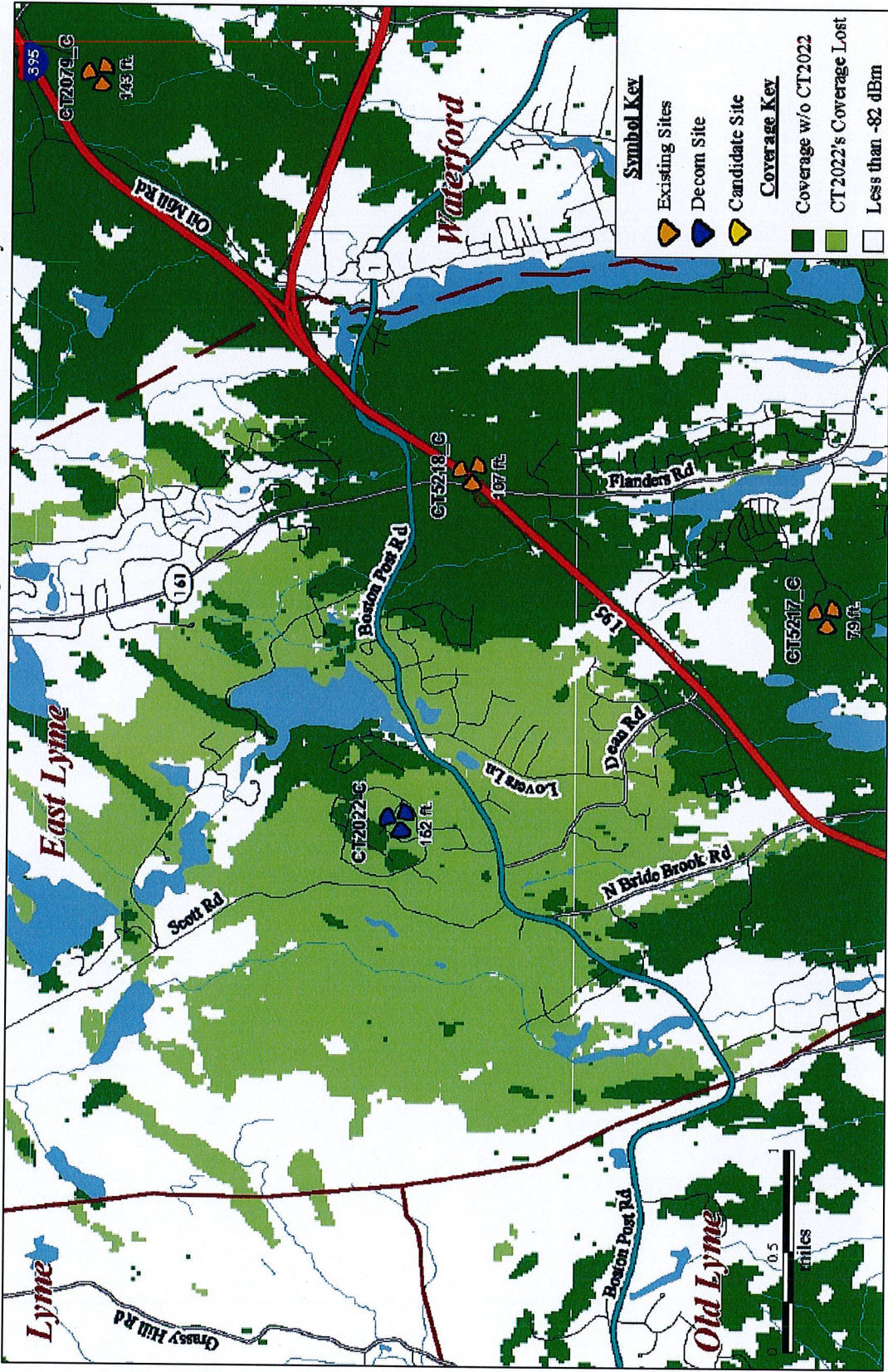
Figure 7 - Proposed 2 Arbor Crossing Faux Silo elevation plan



(Applicant 11, Tab 3)



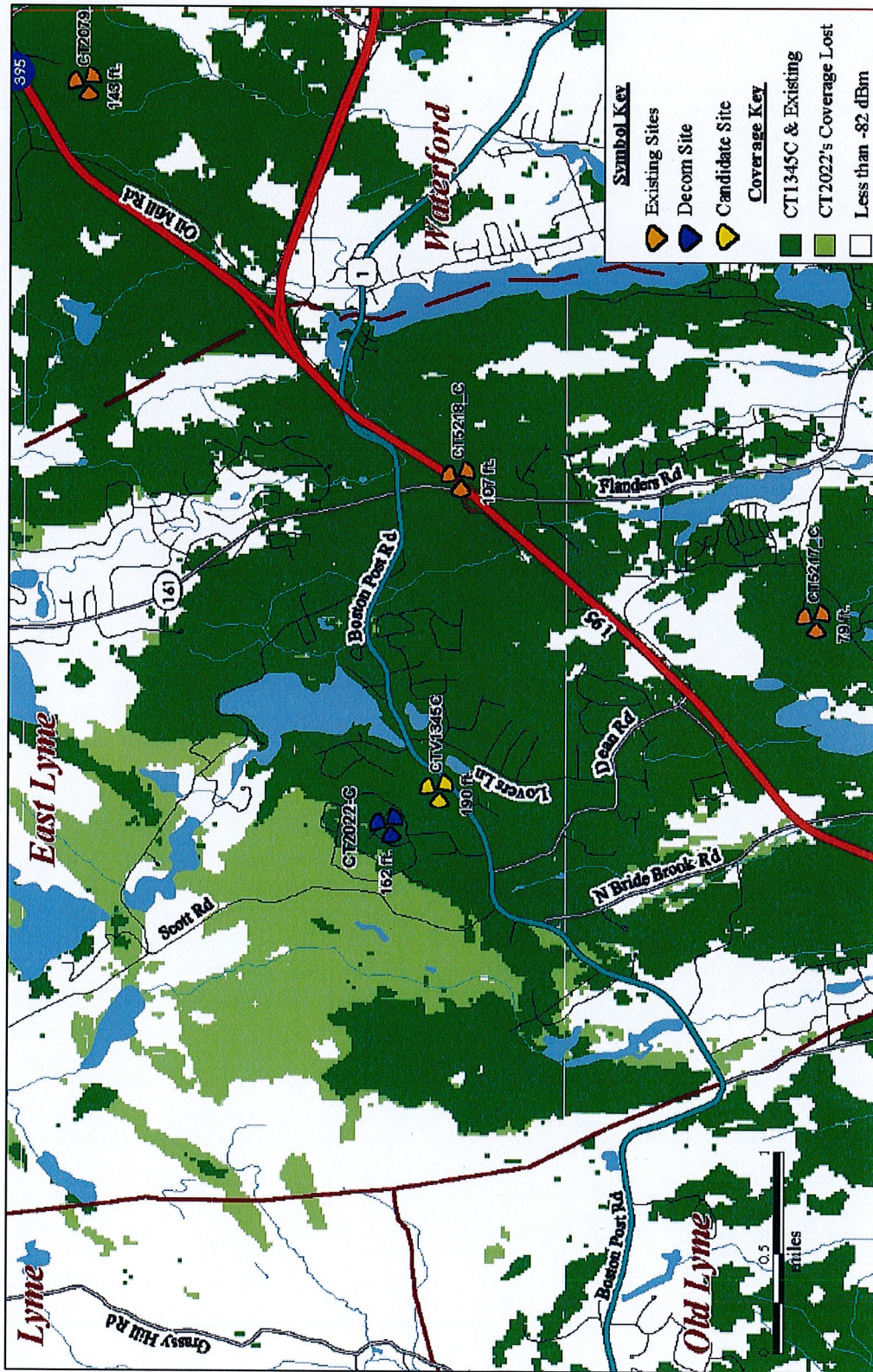
Figure 8: Existing AT&T Coverage in East Lyme Area (850 MHz). Light Green represents coverage "lost" once the existing 2 Scott Road facility is decommissioned. Dark green represents remaining coverage after the 2 Scott Road is decommissioned.



(Applicant 1, Tab 1)



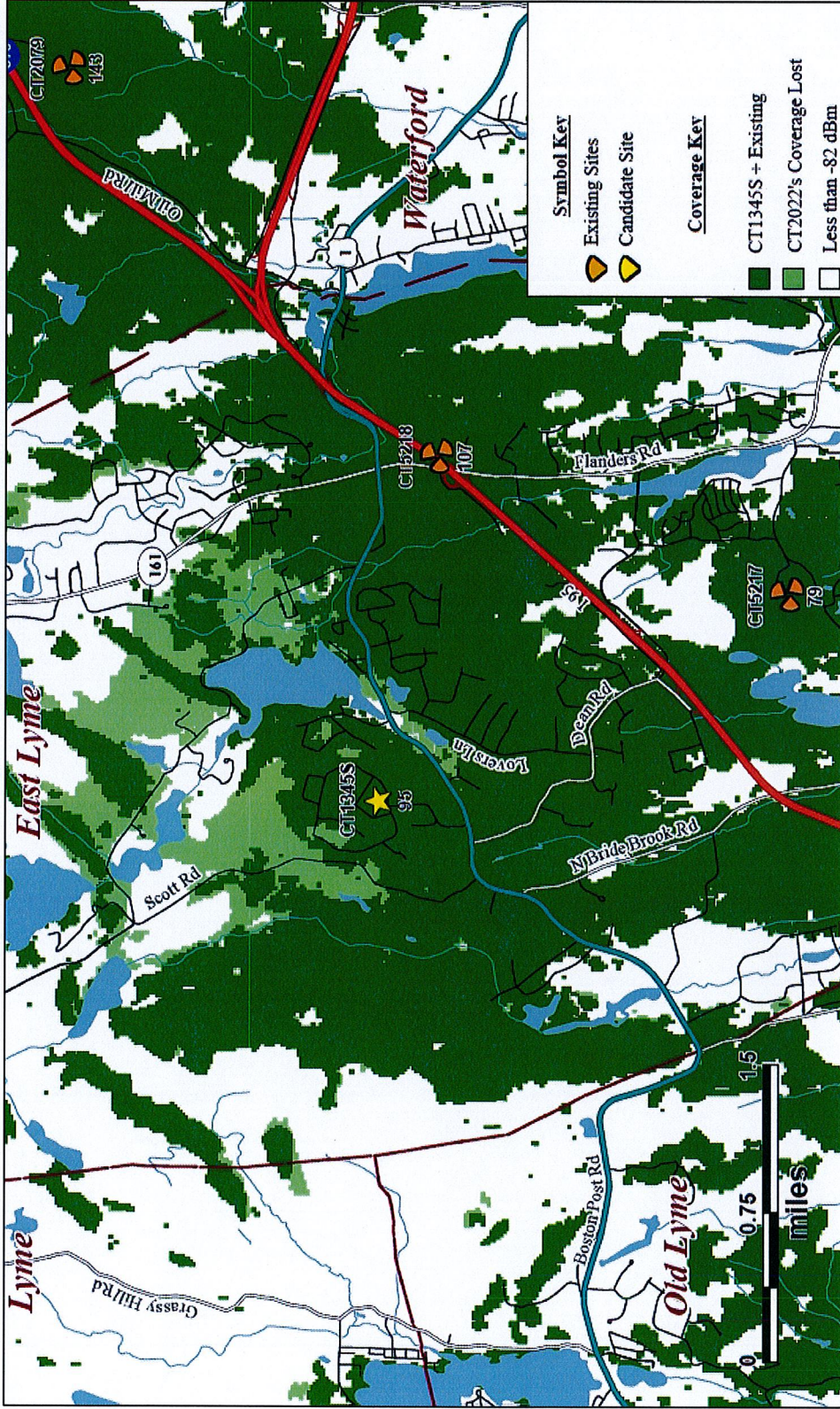
Figure 9: Existing and Proposed AT&T Coverage from 351A Boston Post Road facility (850 MHz). Dark green represents existing and proposed coverage after the 2 Scott Road is decommissioned. Light Green represents coverage not recovered by the proposed facility.



(Applicant 1, Tab 1)



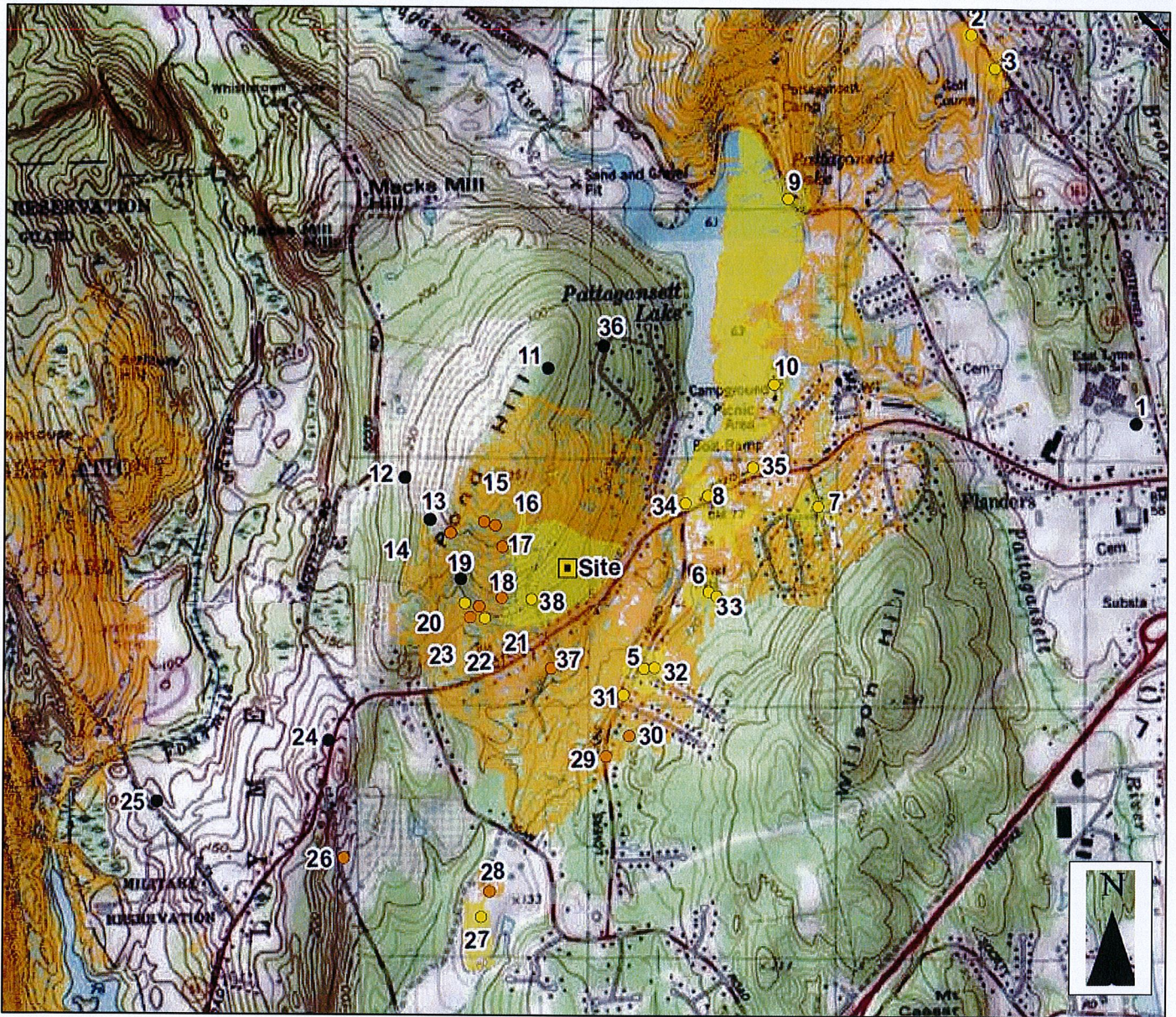
Figure 10: Existing and Proposed AT&T Coverage from 2 Arbor Crossing facility (850 MHz). Dark green represents existing and proposed coverage after the 2 Scott Road is facility is decommissioned. Light Green represents coverage not recovered by the proposed facility



(Applicant 11)



Figure 11 – 351A Boston Post Road Facility Projected Visibility



(Applicant 8, viewshed map)



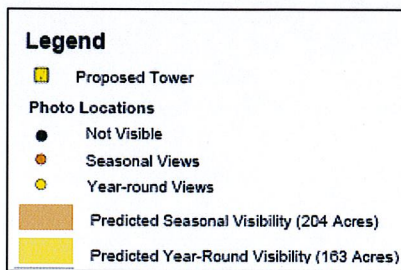
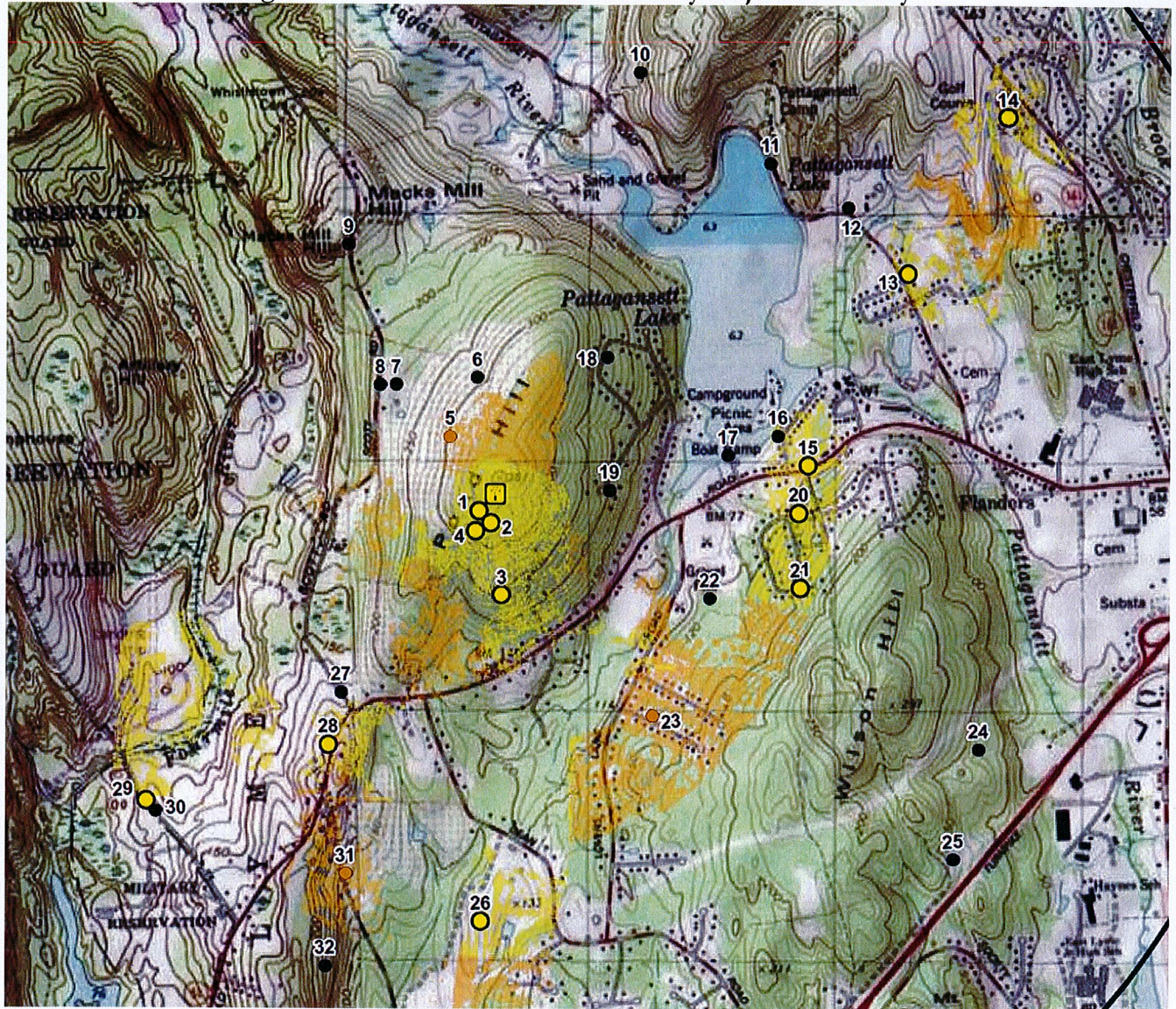
**Figure 11 Table– Photo log table with projected visibility of the proposed 351A Boston Post Road tower from specific locations within a two-mile radius of the site:**

Specific Location	Map Photo-location	Approx. Portion of Facility Visible	Approx. Distance & Direction from Tower
East Lyme High School	1	Not visible	1.4 mi east
Chesterfield Road	2	Year-round - 30 feet barely discernible	1.6 mi northeast
Chesterfield Road	3	Year-round - 15 feet barely discernible	1.6 mi northeast
Flanders Road	-	Year-round - 30 feet	2.4 mi southeast
Maplewood Drive	5	Year-round - 35 feet	0.3 mi southeast
MacKinnon Pl. at Morris Ln.	6	Year-round – 80 feet	0.3 mi east
Parker Drive	7	Year-round – 80 feet	0.6 mi east
Boston Post Road	8	Year-round – 50 feet	0.4 mi east
Upper Pattagensett Road	9	Year-round – 15 feet	1.0 mi northeast
Island Campground	10	Year-round – 40 feet	0.7 mi east
Partridge Lane	11	Not visible	0.50 mi north
The Orchards -Arbor Crossing at Peach Lane	12	Not visible	0.47 mi northwest
The Orchards - Arbor Crossing	13	Not visible	0.37 mi northwest
The Orchards - Arbor Crossing (by #105)	14	Seasonal - 20 feet through trees	0.31 mi northwest
The Orchards - Arbor Crossing (near #111)	15	Seasonal - 40 feet through trees	0.24 mi northwest
The Orchards - Plum Hill Road (near #35)	16	Seasonal - 80 feet through trees	0.21 mi northwest
The Orchards - Plum Hill Road (near #31)	17	Seasonal - 100 feet through trees	0.17 mi west
The Orchards - Plum Hill Road (near #19)	18	Seasonal - 40 feet through trees	0.19 mi west
The Orchards - Hickory Court (near #5)	19	Not visible	0.27 mi west
The Orchards - Hickory Court	20	Year-round – 15 feet	0.26 mi southwest
The Orchards - Hickory Ct. at Plum Hill Rd.	21	Seasonal - 50 feet through trees	0.26 mi southwest
The Orchards - Plum Hill Road (near #11)	22	Year-round – 20 feet	0.25 mi southwest
Plum Hill Road	23	Seasonal - 40 feet through trees	0.28 mi southwest
Joshua Valley Road	24	Not visible	0.74 mi southwest
Esther Pond Lane	25	Not visible	1.19 mi southwest
North Bride Brook Road	26	Seasonal - barely discernible	0.91 mi southwest
Woodrow Road	27	Seasonal - 30 feet through trees	0.90 mi south
Woodrow Road	28	Seasonal - barely discernible	0.83 mi south
Lovers Lane	29	Seasonal - 50 feet through trees	0.48 mi south
Jean Drive	30	Seasonal - 30 feet through trees	0.45 mi south
Lovers Lane	31	Year-round -15 feet/ Seasonal 60 feet	0.34 mi south
Maplewood Drive	32	Year-round – 80 feet	0.32 mi southeast
MacKinnon Pl. at Morris Ln	33	Year-round – 80 feet	0.36 mi east
Boston Post Road	34	Year-round – 60 feet	0.34 mi east
Boston Post Road	35	Year-round – 60 feet	0.53 mi east
Legendary Road	36	Not visible	0.56 mi north
Naomi Road	37	Seasonal - 35 feet through trees	0.25 mi south
Host Property Driveway	38	Year-round – 50 feet	0.12 mi southwest
Boston Post Rd. #342 (front)	-	Seasonal - 60 feet through trees	730 feet southwest
Boston Post Rd. #345 (rear)	-	Seasonal - 50 feet through trees	570 feet west
Boston Post Road #341 (front)	-	Year-round - 50 feet/ Seasonal 30 feet	595 feet south
Sunrise Trail #24 (rear)	-	Seasonal - 40 feet through trees	630 feet east
Boston Post Road #351B (front)	-	Year-round – majority of tower	500 feet north
The Orchards - Plum Hill Road, near #21 (street)	-	Year-round - 30 feet	970 feet west

(Applicant 1, Tab 2, Tab 4, Tab 8, Applicant 2, Tab E; Applicant 8, BHSO Community Conservancy 2 photos; Tr. 3, pp. 69, 93-94)



Figure 12 – 351A Boston Post Road Facility Projected Visibility



1" ~ 0.27 mi

(Applicant late file of December 1, 2016)



**Figure 12 Table– Projected visibility of the proposed 2 Arbor Crossing Faux silo facility from specific locations within a two-mile radius of the site is presented in the table below:**

Specific Location	Photo location on Map*	Approx. Portion of Facility Visible	Approx. Distance & Direction to Silo
Host Property*	1	Year-round - entire facility	310 Feet east
Arbor Crossing*	2	Year-round - 65 feet	401 Feet north
Plum Hill Road*	3	Year-round - 80 feet	0.25 Mile north
Arbor Crossing*	4	Year-round - entire facility	0.11 Mile northeast
Peach Lane*	5	Seasonal - through trees	0.18 Mile southeast
Arbor Crossing*	6	Not visible	0.29 Mile southeast
Arbor Crossing*	7	Not visible	0.37 Mile southeast
Scott Road	8	Not visible	0.40 Mile southeast
Scott Road*	9	Not visible	0.73 Mile southeast
Kensington Drive	10	Not visible	1.11 Miles southwest
Upper Pattagansett Road*	11	Not visible	1.07 Miles southwest
Upper Pattagansett Road*	12	Not visible	1.14 Miles southwest
Upper Pattagansett Road*	13	Year-round - top	1.18 Miles southwest
Drabik Road*	14	Year-round – upper portion	1.06 Miles southwest
Boston Post Road*	15	Year-round - top	0.80 Miles west
Pattagansett Drive*	16	Not visible	0.73 Mile west
Pattagansett Lake	17	Not visible	0.60 Mile west
Legendary Road	18	Not visible	0.44 Mile southwest
Sunrise Trail	19	Not visible	0.30 Mile west
Parker Drive*	20	Year-round – upper portion	1.20 Miles northwest
Chris Alan Drive*	21	Year-round – upper portion	0.81 Mile northwest
MacKinnon Place *	22	Not visible	0.60 Mile northwest
Marion Drive	23	Seasonal - through trees	0.68 Mile northwest
Maple Tree Lane	24	Not visible	1.38 Miles northwest
Maple Tree Lane	25	Not visible	1.47 Miles northwest
Woodrow Drive*	26	Year-round – upper portion	1.05 Miles north
Scott Road*	27	Not visible	0.62 Mile northeast
Joshua Valley Road at Boston Post Road*	28	Year-round – upper portion	0.75 Mile northeast
Stone Ranch Road*	29	Year-round – upper portion	1.17 Miles northeast
Stone Ranch Road at Esther Pond Lane*	30	Not visible	1.17 Miles northeast
North Bride Brook Road	31	Year-round – upper portion	1.01 Miles northeast
Applewood Common	32	Not visible	1.25 Miles northeast

\* Existing 2 Scott Road tower visible from these locations.



**Photo-simulation of proposed 351 A Boston Post Road tower from host property** (Applicant 8)



<b>PROPOSED</b>				
PHOTO	LOCATION	ORIENTATION	DISTANCE TO SITE	VISIBILITY
38	ENTRANCE TO HOST PROPERTY	EAST	+/- 0.12 MILE	YEAR ROUND

**Photo-simulation of proposed 2 Arbor Crossing faux silo from host property** (Applicant 11)



<b>PROPOSED</b>				
PHOTO	LOCATION	ORIENTATION	DISTANCE TO SITE	VISIBILITY
1	HOST PROPERTY	EAST	+/- 310 FEET	YEAR ROUND



<p><b>DOCKET NO. 463A</b> – American Towers, LLC and New Cingular Wireless PCS, LLC amended application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 351A Boston Post Road, East Lyme, Connecticut or for the construction, maintenance and operation of a telecommunications facility at an alternative site located at 2 Arbor Crossing, East Lyme, Connecticut pursuant to Connecticut General Statutes §4-181a(a).</p>	<p>} Connecticut          } Siting          } Council          December 22, 2016</p>
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**Opinion**

On October 6, 2015, American Towers, LLC and New Cingular Wireless PCS, LLC, (collectively the Applicant), applied to the Connecticut Siting Council (Council) for a Certificate of Environmental Compatibility and Public Need (Certificate) for the construction, maintenance, and operation of a 194-foot monopole wireless telecommunications facility to be located at 351A Boston Post Road, East Lyme, Connecticut. The BHSO Community Conservancy and the Town of East Lyme participated as parties to the proceeding and pursuant to Connecticut General Statutes §22a-19, the Council granted both the Town of East Lyme and BHSO Community Conservancy Connecticut Environmental Protection Act intervenor status.

The purpose of the proposed facility is to replace an existing 150-foot monopole telecommunications facility located at 2 Scott Road in East Lyme that was approved by the Council in 1986 in Docket 67. The existing facility is located at the summit of Pond Hill, a relatively high location north of Route 1, and currently supports New Cingular Wireless PCS, LLC (AT&T) and T-Mobile. At the time of the Council’s approval, the 2 Scott Road property was largely undeveloped but has since been developed as a residential community known as The Orchards. The existing tower lease expires at the end of 2017 and AT&T, the 2 Scott Road Certificate Holder, was unsuccessful in renegotiating a new long-term lease with the landlord to further utilize the existing tower.

The United States Congress recognized a nationwide need for high quality wireless services in part through the adoption of the Federal Telecommunications Act of 1996 and directed the Federal Communications Commission (FCC) to establish a market structure for system development, and develop technical standards for network operations. Connecticut State law directs the Council to balance the need for development of proposed wireless telecommunications facilities with the need to protect the environment, including public health and safety.

For the Application, the Council conducted a public hearing in the Town of East Lyme on December 15, 2015, consisting of a public field review of the proposed 351A Boston Post Road site, a public evidentiary session and a public comment session. A continued public evidentiary session was held on January 26, 2016 at the Council’s office in New Britain. The Town and BHSO Conservancy both sought to have the proposed tower moved to another location, believing that the proposed facility was too visually intrusive to the surrounding neighborhood.

After conclusion of the hearing session, AT&T approached the owner of The Orchards for another attempt to find a suitable location within The Orchards for a telecommunication facility. On March 28, 2016, the Applicant requested the Council defer a final decision in this matter and granted the Council an extension of time to render a decision to allow the Applicant enough time to thoroughly investigate a potential alternate site located near the existing Scott Road tower. On September 14, 2016 the Applicant submitted an amendment to the application to formally present an alternate site for the proposed facility located at 2 Arbor Crossing in East Lyme. On September 29, 2016 the Council reopened Docket 463 to allow the Council to consider both sites. A second public hearing was held in the Town of East Lyme on November 1, 2016

which included a field review of the 2 Arbor Crossing site and a public evidentiary session and a public comment session.

The Council finds that the Applicant conducted a thorough search for locations suitable for a replacement telecommunications facility and is pleased that, through persistence, an Alternative Site was established for the Council to consider. Besides the two proposed sites, a total of 36 properties were examined including properties suggested by the Town, BHSO Community Conservancy, and the Council. Several properties in the Wilson Hill area, a relatively undeveloped area southeast of Route 1 and accessed by Ancient Highway, were determined to be suitable for AT&T. The Applicant initially proposed two potential tower sites in this area but ultimately had to withdraw them from consideration after receiving a significant adverse effect determination from the Mohegan Tribe as part of the federally mandated National Environmental Policy Act review process. The tribe stated that due to cultural features and the historic landscape of the Ancient Highway area, a tower in the Ancient Highway area would be detrimental to the tribe's cultural heritage. The Applicant also examined the Stone Ranch Military Reservation property, and determined that locating on the existing tower on the property would not meet coverage objectives because it is too far from Route 1, an area of wireless service need. Other locations on the Stone Ranch property were also too low in elevation to meet wireless service objectives. Furthermore, the Connecticut Military Department, the property owner, will not allow AT&T to locate on the existing tower or construct a new tower on the Stone Ranch property.

The proposed 351A Boston Post Road site consists of a 194-foot monopole facility located on a 7.2-acre flag shaped parcel that is accessed from Route 1. The parcel contains a single family residence and undeveloped woodland. The tower site is located in the wooded, eastern portion of the property and would be accessed by a new 700-foot long gravel drive that would extend from an existing paved driveway on the property. The proposed tower site is approximately 0.3 miles southeast of the existing 2 Scott Road tower. The site is on the south slope of Pond Hill, approximately 100 feet lower in ground elevation than the existing tower. Land use immediately surrounding 351A Boston Post site is developed residential with most development located to the south, along Route 1, and east, within The Orchards. The tower setback radius extends onto abutting developed residential property to the north by 94 feet and east by 152 feet.

The proposed 2 Arbor Crossing site consists of a faux silo facility located on an approximately 5.2-acre parcel within The Orchards residential development. The parcel is developed with a clubhouse, recreational areas and the existing 2 Scott Road tower. AT&T would construct a 105-foot tall faux silo with an approximate diameter of 22 to 24 feet. A 35-foot wide by 50-foot long by 35-foot high wood frame faux barn equipment building would be constructed to house ground equipment for facility tenants. Access to the site would be from a new 375-foot gravel drive extending along the pool area of the property. Adjacent land use includes developed and undeveloped residential parcels within The Orchards community.

Both proposed sites would allow AT&T to replace most of the wireless service that would be lost once the 2 Scott Road facility is decommissioned. Overall, the 2 Arbor Crossing facility recovers more of the lost service when compared to the 351A Boston Post Road site due to its location near the summit of Pond Hill. Along Route 1 east of the site, the 351A Boston Post Road site performs better than the 2 Arbor Crossing site, providing service to a 0.4 mile section of roadway where even the existing 2 Scott Road tower could not provide adequate coverage. Most of the degraded service from the 2 Arbor Crossing site would occur during leaf-on conditions when the foliage blocks some of the signal from the site. Lowering the height of either facility would compromise AT&T's effort to recover as much service as possible once the existing tower is decommissioned, especially in the Route 1 corridor, a major town road that supports residential and commercial development.

For this application, American Towers, LLC would be the Certificate Holder for the 351A Boston Post Road site whereas AT&T would be the Certificate Holder for the 2 Arbor Crossing site. Both sites would be constructed to support three other telecommunications carriers for future co-location. To prevent issues with storm related outages, both sites would feature underground utilities and a shared emergency generator for use by all tower tenants.

Development of either site would not affect any wetlands or watercourses. Stormwater controls on the 351A Boston Post Road site would be problematic due to the shallow depth to bedrock. The 2 Arbor Crossing site would tie into an existing stormwater control system within the residential development.

Development of either site would require the clearing of 0.4-acre of woodland, with more mature trees occurring on the 351A Boston Post Road site. The clearing would occur in woodland that is considered fragmented forest and would not affect any core forest blocks. The red bat, a State-listed Species of Special concern, and the northern long-eared bat, a State-listed Endangered and federally-listed Threatened Species, are known to occur in the general area of both sites, preferring mature trees for roosting. As recommended by the Department of Energy and Environmental Protection, the Council will order the Applicant to include tree clearing restrictions within the D&M Plan for the project to avoid potential impacts to populations of these bat species. No historic or cultural resources would be affected by either proposed facility.

The height of both facilities is a concern of the Council given their location adjacent to developed residential areas. The upper portions of both facilities would be visible from select areas to the east and southeast, out to a distance of a mile, especially from areas that are on hillsides that face the sites. Year-round views from distant areas to the west and southwest are effectively blocked by hilly terrain or dense tree cover.

Significant year-round views of either site would be mainly from locations within the immediate area surrounding each site. The 351A Boston Post Road 194-foot monopole is relatively tall when compared to the existing 2 Scott Road tower and is in a densely developed residential area. Several homes on the hillside above the 351A Boston Post Road site would have year-round views of a substantial portion of the tower.

Although the 2 Arbor Crossing 105-foot tall faux silo is also in a residential area, the proposed site is located adjacent to the existing 150-foot tall Scott Road tower and abuts property to the north and east that has not yet been developed into residences. Although the silo has more visual mass when viewed from nearby locations than the existing tower, it is shorter, and given that the antennas and associated mounting equipment is contained within the silo, it presents a softened visual profile rather than an abrupt, tall, metal structure with antenna platforms that protrude from the upper portion of the tower.

The proposed faux silo structure would not be a unique application in the State as a similar 108-foot tall faux silo facility was constructed in Hamden, Connecticut for use by multiple telecommunication carriers. For the proposed 2 Arbor Crossing site, the faux silo conforms to the former agriculture use of the property and, in general, agricultural land use in the surrounding area. The proposed faux barn is sized proportionally with the silo facility. Smaller structures would appear too small, thus enhancing the size of the faux silo. Landscaping and decorative fencing around the base of the facility would further enhance a pastoral landscape.

After examining the impacts of both proposed facilities, the Council finds the 2 Arbor Crossing site preferable. It would require less site work to develop, presents less of a challenge to control stormwater runoff, requires less clearing of mature trees that are favored by tree roosting bats, provides acceptable wireless service to AT&T, is located on a parcel currently used to support a telecommunications facility, and utilizes a stealth tower application that would have less of a visual impact on the surrounding area and fits in with the theme of the past agricultural use of The Orchards development. Although the cost of the 2 Arbor

Crossing facility is considerably more than the 351A Boston Post Road site, AT&T demonstrated it is willing to build the structure by designing the facility with direct input from the landowner to replace the existing facility and by signing a long-term lease.

In accordance with C.G.S. §22a-19, the Council finds that a facility at the 2 Arbor Crossing site would not cause unreasonable pollution, impairment or destruction of the public trust in the air, water or other natural resources of the state. The Council has considered all reasonable alternatives and finds that a faux silo facility at the 2 Arbor Crossing site represents the best alternative consistent with the reasonable requirements of the public health, safety and welfare.

According to a methodology prescribed by the FCC Office of Engineering and Technology Bulletin No. 65E, Edition 97-01 (August 1997), the radio frequency power density levels of AT&T's and T-Mobile's antennas would be 15.4 percent of the FCC's General Public/Uncontrolled Maximum Permissible Exposure, as measured at the base of the facility. This percentage is below federal standards established for the frequencies used by wireless companies. If federal standards change, the Council will require that the tower be brought into compliance with such standards. The Council will require that the power densities be recalculated in the event other carriers add antennas to the tower. The Telecommunications Act of 1996 prohibits any state or local agency from regulating telecommunications towers on the basis of the environmental effects of radio frequency emissions to the extent that such towers and equipment comply with FCC's regulations concerning such emissions. Regarding potential harm to wildlife from radio emission; this, like the matter of potential hazard to human health, is a matter of federal jurisdiction. The Council's role is to ensure that the tower meets federal permissible exposure limits.

Based on the record in this proceeding, the Council finds that the effects associated with the construction, maintenance and operation of the proposed 105-foot faux silo telecommunications facility at 2 Arbor Crossing, including effects on the natural environment; ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish and wildlife are not disproportionate either alone or cumulatively with other effects when compared to need, are not in conflict with policies of the State concerning such effects, and are not sufficient reason to deny this application. Therefore, the Council will issue a Certificate to New Cingular Wireless PCS, LLC for the construction, maintenance, and operation of a 105-foot faux silo telecommunications facility at 2 Arbor Crossing in East Lyme, Connecticut. The Council denies certification of the proposed 194-foot monopole telecommunications facility at 351A Boston Post Road.

<b>DOCKET NO. 463A</b> – American Towers, LLC and New Cingular Wireless PCS, LLC amended application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 351A Boston Post Road, East Lyme, Connecticut or for the construction, maintenance and operation of a telecommunications facility at an alternative site located at 2 Arbor Crossing, East Lyme, Connecticut pursuant to Connecticut General Statutes §4-181a(a).	} Connecticut } Siting } Council December 22, 2016
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**Decision and Order**

Pursuant to Connecticut General Statutes §16-50p, §22a-19 and the foregoing Findings of Fact and Opinion, the Connecticut Siting Council (Council) finds that the effects associated with the construction, maintenance, and operation of a telecommunications facility, including effects on the natural environment; ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish and wildlife are not disproportionate, either alone or cumulatively with other effects, when compared to need, are not in conflict with the policies of the State concerning such effects, and are not sufficient reason to deny the application, and therefore directs that a Certificate of Environmental Compatibility and Public Need, as provided by General Statutes § 16-50k, be issued to New Cingular Wireless PCS, LLC, hereinafter referred to as the Certificate Holder, for a telecommunications facility at 2 Arbor Crossing, East Lyme, Connecticut. The Council denies Certification of the proposed site located at 351A Boston Post Road, East Lyme, Connecticut.

Unless otherwise approved by the Council, the facility shall be constructed, operated, and maintained substantially as specified in the Council’s record in this matter, and subject to the following conditions:

1. The tower shall be constructed as a faux silo at a height of 105 feet above ground level to provide the proposed wireless services, sufficient to accommodate the antennas of New Cingular Wireless PCS, LLC and other entities, both public and private. The height of the tower may be extended after the date of this Decision and Order pursuant to regulations of the Federal Communications Commission.
  
2. The Certificate Holder shall prepare a Development and Management (D&M) Plan for this site in compliance with Sections 16-50j-75 through 16-50j-77 of the Regulations of Connecticut State Agencies. The D&M Plan shall be served on the Town of East Lyme for comment, and all parties and intervenors as listed in the service list, and submitted to and approved by the Council prior to the commencement of facility construction and shall include:
  - a) final site plan(s) for development of the facility to include specifications for the faux silo tower that employ the governing standard in the State of Connecticut for tower design in accordance with the currently adopted International Building Code, tower foundation, antennas, equipment compound including, but not limited to, fencing, radio equipment, access road, utility line, emergency backup generator, and landscaping ;
  - b) construction plans for site clearing, grading, landscaping, water drainage and stormwater control, and erosion and sedimentation controls consistent with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended;
  - c) provisions for tree clearing restrictions as recommended by the Department of Energy and Environmental Protection and/or the United States Fish and Wildlife Service to protect listed bat species; and
  - d) hours of construction.



3. Prior to the commencement of operation, the Certificate Holder shall provide the Council worst-case modeling of the electromagnetic radio frequency power density of all proposed entities' antennas at the closest point of uncontrolled access to the base of the facility, consistent with Federal Communications Commission, Office of Engineering and Technology, Bulletin No. 65, August 1997. The Certificate Holder shall ensure a recalculated report of the electromagnetic radio frequency power density be submitted to the Council if and when circumstances in operation cause a change in power density above the levels calculated and provided pursuant to this Decision and Order.
4. Upon the establishment of any new federal radio frequency standards applicable to frequencies of this facility, the facility granted herein shall be brought into compliance with such standards.
5. The Certificate Holder shall permit public or private entities to share space on the proposed tower for fair consideration, or shall provide any requesting entity with specific legal, technical, environmental, or economic reasons precluding such tower sharing.
6. Unless otherwise approved by the Council, if the facility authorized herein is not fully constructed with at least one fully operational wireless telecommunications carrier providing wireless service within eighteen months from the date of the mailing of the Council's Findings of Fact, Opinion, and Decision and Order (collectively called "Final Decision"), this Decision and Order shall be void, and the Certificate Holder shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made. The time between the filing and resolution of any appeals of the Council's Final Decision shall not be counted in calculating this deadline. Authority to monitor and modify this schedule, as necessary, is delegated to the Executive Director. The Certificate Holder shall provide written notice to the Executive Director of any schedule changes as soon as is practicable.
7. Any request for extension of the time period referred to in Condition 6 shall be filed with the Council not later than 60 days prior to the expiration date of this Certificate and shall be served on all parties and intervenors, as listed in the service list, and the Town of East Lyme.
8. If the facility ceases to provide wireless services for a period of one year, this Decision and Order shall be void, and the Certificate Holder shall dismantle the tower and remove all associated equipment or reapply for any continued or new use to the Council within 90 days from the one year period of cessation of service. The Certificate Holder may submit a written request to the Council for an extension of the 90 day period not later than 60 days prior to the expiration of the 90 day period.
9. Any nonfunctioning antenna, and associated antenna mounting equipment, on this facility shall be removed within 60 days of the date the antenna ceased to function.
10. In accordance with Section 16-50j-77 of the Regulations of Connecticut State Agencies, the Certificate Holder shall provide the Council with written notice two weeks prior to the commencement of site construction activities. In addition, the Certificate Holder shall provide the Council with written notice of the completion of site construction, and the commencement of site operation.
11. The Certificate Holder shall remit timely payments associated with annual assessments and invoices submitted by the Council for expenses attributable to the facility under Conn. Gen. Stat. §16-50v.

12. This Certificate may be transferred in accordance with Conn. Gen. Stat. §16-50k(b), provided both the Certificate Holder/transferor and the transferee are current with payments to the Council for their respective annual assessments and invoices under Conn. Gen. Stat. §16-50v. In addition, both the Certificate Holder/transferor and the transferee shall provide the Council a written agreement as to the entity responsible for any quarterly assessment charges under Conn. Gen. Stat. §16-50v(b)(2) that may be associated with this facility.
13. The Certificate Holder shall maintain the facility and associated equipment, including but not limited to, the faux silo tower, tower foundation, antennas, equipment compound, radio equipment, access road, utility line and landscaping in a reasonable physical and operational condition that is consistent with this Decision and Order and a Development and Management Plan to be approved by the Council.
14. If the Certificate Holder is a wholly-owned subsidiary of a corporation or other entity and is sold/transferred to another corporation or other entity, the Council shall be notified of such sale and/or transfer and of any change in contact information for the individual or representative responsible for management and operations of the Certificate Holder within 30 days of the sale and/or transfer.
15. This Certificate may be surrendered by the Certificate Holder upon written notification and approval by the Council.

We hereby direct that a copy of the Findings of Fact, Opinion, and Decision and Order be served on each person listed in the Service List, dated September 29, 2016, and notice of issuance published in The Day.

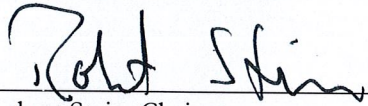
By this Decision and Order, the Council disposes of the legal rights, duties, and privileges of each party named or admitted to the proceeding in accordance with Section 16-50j-17 of the Regulations of Connecticut State Agencies.

**CERTIFICATION**

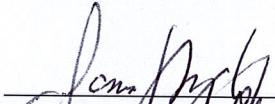
The undersigned members of the Connecticut Siting Council (Council) hereby certify that they have heard this case, or read the record thereof, in **DOCKET NO. 463A** – American Towers, LLC and New Cingular Wireless PCS, LLC amended application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a telecommunications facility located at 351A Boston Post Road, East Lyme, Connecticut or for the construction, maintenance and operation of a telecommunications facility at an alternative site located at 2 Arbor Crossing, East Lyme, Connecticut pursuant to Connecticut General Statutes §4-181a(a), and voted as follows to approve the alternative site located at 2 Arbor Crossing, East Lyme, Connecticut, and deny certification of the proposed site located at 351A Boston Post Road, East Lyme, Connecticut:

**Council Members**

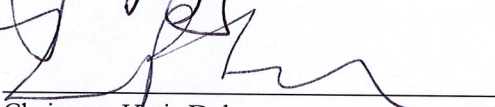
**Vote Cast**

  
\_\_\_\_\_  
Robert Stein, Chairman

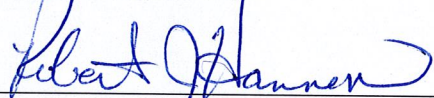
Yes

  
\_\_\_\_\_  
James J. Murphy, Jr., Vice Chairman

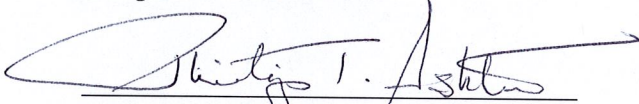
Yes

  
\_\_\_\_\_  
Chairman Katie Dykes  
Designee: Larry Levesque

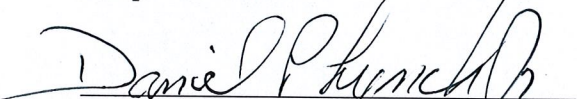
Yes

  
\_\_\_\_\_  
Commissioner Robert Klee  
Designee: Robert Hannon

Yes

  
\_\_\_\_\_  
Philip T. Ashton

Yes

  
\_\_\_\_\_  
Daniel P. Lynch, Jr.


Yes

\_\_\_\_\_  
Michael Harder

Absent

\_\_\_\_\_  
Dr. Michael W. Klemens

Absent

  
\_\_\_\_\_  
Robert Silvestri

Abstain

Dated at New Britain, Connecticut, December 22, 2016.